

## SECTION SF 1449 CONTINUATION SHEET

<u>ITEM NO</u>	<u>SUPPLIES/SERVICES</u>	<u>QUANTITY</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>AMOUNT</u>
0001		1.00	Lot	\$	\$

Intermodal services between CONUS and Alaska and Puerto Rico-  
FFP - Contract period of performance 1 Aug 2003 - 31 Jul 2004.  
Rates as specified in the CARES SM .

NET AMT \$

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Intermodal services between CONUS and Alaska and Puerto Rico-  
FFP - Contract period of performance 1 Aug 2005 - 31 Jul 2006.  
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NET AMT \$

DOCUMENT TYPE	DESCRIPTION	PAGES	DATE
Attachment 1	Average Container/ Chassis Cubic Capacity	3	13 February 2001
Attachment 2	City Groups	1	6 April 2001
Attachment 3	Direct Booking Rules	-	
Attachment 4	Power Track Rules	-	

## CLAUSES INCORPORATED BY REFERENCE:

52.203-3	Gratuities	APR 1984
52.204-4	Printed or Copied Double-Sided on Recycled Paper	AUG 2000
52.217-2	Cancellation Under Multiyear Contracts	OCT 1997
52.245-1	Property Records	APR 1984
52.246-4	Inspection Of Services - Fixed Price	AUG 1996
252.203-7002	Display Of DoD Hotline Poster	DEC 1991
252.204-7000	Disclosure Of Information	DEC 1991
252.204-7003	Control Of Government Personnel Work Product	APR 1992
252.204-7004	Required Central Contractor Registration	MAR 2000
252.223-7002	Safety Precautions For Ammunition And Explosives	MAY 1994
252.223-7006	Prohibition On Storage And Disposal Of Toxic And Hazardous Materials	APR 1993
252.243-7001	Pricing Of Contract Modifications	DEC 1991

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## **1.0 CLAUSES INCORPORATED BY FULL TEXT**

### **1.1. Effective Dates**

This contract shall be in effect for all cargo received for sailing on or after 0001 hours local time 1 August 2003. The contract shall remain in force for all cargo received by the Carrier or its agent for all sailing scheduled on or before 31 July 2004, Base year, and 1 August 2004 through 31 July 2005, Option Year 1, providing the option is exercised.

### **1.2. Justification for Inclusion of Liquidated Damages**

Liquidated Damages are provided for in RFP DAMT01-03-R-0023, in accordance with FAR Part 11.502, since both (1) time of delivery or performance are such important factors in the award of the contract that the Government may reasonably expect to suffer damage if the delivery or performance is delinquent. (2) The extent or amount of such damage would be difficult or impossible to ascertain or prove. The Contracting Officer (CO) has considered the probable effect of such matters as pricing, competition, and the costs and difficulties of contract administration. Further, the application of liquidated damages for non-performance of service contract provisions is a recognized regulatory practice for the ocean and intermodal transportation industry (Shipping Act of 1984).

### **1.3. Contracting Officer**

The Contracting Officer (CO) who shall perform contract administration for this contract is located at Military Traffic Management Command, Attn: MTAQ-JI, Room 12S67-64, 200 Stovall Street, Alexandria, VA 22332-0405, (703) 428-3080 or FAX (703) 428-3362

### **1.4. Contract Type**

This contract is a Firm Fixed Price, Indefinite Delivery/Indefinite Quantity contract as defined in FAR Part 16.5.

#### **1.4.1. Option Year Minimums**

The Government commits to a minimum guarantee of cargo for each designated outbound route/zone which is sufficient cargo to ensure full compliance with FAR 16.504(a) (2), more than nominal quantities and economically viable revenue based to support any accepted service.

#### **1.4.2. Minimum Cargo Commitment: Alaska**

The Government commits to ship a minimum of: **To be determined at a later date** forty-foot equivalent units (FEUs) under the non-Customer Service Section northbound to Alaska from Continental United States (CONUS), (excluding vehicles) during the term of this contract. Cargo moved in a container of forty (40) feet or longer will be counted as one (1) FEU and cargo in a container of twenty (20) feet will be counted as one-half (0.5) FEU. The Government also commits to ship a minimum of: **To be determined at a later date** measurement tons of non-Customer Service Section breakbulk cargo northbound to Alaska from CONUS during the term of this contract. In the case where the Government fails to ship the minimum guaranteed cargo, the Government will pay the Contractor two hundred fifty (250) dollars per FEU shortfall for containers and seven (7) dollars per MT shortfall for breakbulk in place of actual damages.



**1.4.3. Tonnage Minimums: Alaska**

The Government commits to ship one (1) measurement ton (MT) or one (1) FEU container as appropriate for awardees of inbound service from Alaska to CONUS. The same commitment applies separately to the option period.

**1.4.4. Minimum Cargo Commitment: Puerto Rico/Virgin Islands**

The Government commits to ship a minimum of: **To be determined at a later date** forty-foot equivalent units (FEUs) under the non-Customer Service Section southbound to Puerto Rico from Continental United States (CONUS), (excluding vehicles) during the term of this contract. Cargo moved in a container of forty (40) feet or longer will be counted as one (1) FEU and cargo in a container of twenty (20) feet will be counted as one-half (0.5) FEU. The Government also commits to ship a minimum of: **To be determined at a later date** measurement tons of non-Customer Service Section breakbulk cargo southbound to Puerto Rico from CONUS during the term of this contract. In the case where the Government fails to ship the minimum guaranteed cargo, the Government will pay the Contractor two hundred fifty (250) dollars per FEU shortfall for containers and seven (7) dollars per MT shortfall for breakbulk in place of actual damages.

**1.4.5. Tonnage Minimums: Puerto Rico/Virgin Islands**

The Government commits to ship one (1) measurement ton (MT) or one (1) FEU container as appropriate for awardees of inbound service from Puerto Rico/Virgin Islands to CONUS. The same commitment applies separately to the option period.

**2.0 GENERAL****2.1. Transportation Services**

The Contractor, a vessel-operating ocean Carrier, shall provide all resources necessary to perform the Performance Work Statement (PWS). This performance shall be provided through ocean and intermodal transportation by Jones Act U.S. flagships and/or barge/tug systems. The Contractor shall maintain regularly scheduled liner term service between continental U.S. (CONUS) points and ports to the port of San Juan, Puerto Rico, and the U.S. Virgin Islands and points and ports in Alaska, throughout the period of the contract. The Contractor agrees to offer space in each of its vessels engaged in Contractor's service on the routes under this contract, consistent with its obligations as a common or contract Carrier. The Carrier shall provide breakbulk and/or container service, including receiving, terminal handling, loading /discharging and container pools if required.

**2.2. Regulatory Compliance**

The Carrier agrees to comply with such regulations of Governmental agencies as may be applicable for service to the Government in the carriage of military cargo as set forth in this Agreement. The Carrier ensures that its rates have taken into account the provisions of Old Section 10721 of the Interstate Commerce Act (49 U.S.C. 10721) which are preserved under Sections 10721 (Rail) and 13712 of the Interstate Commerce Commission Termination Act of 1995, P.L. 104-88, 109 Stat. 803, Dec. 29, 1995 (Motor/Water) and that such rates do not exceed the lowest available rates to the general public for comparable service on the date of acceptance of its offer by the Government, and that such rates do not exceed the Carrier's charges for transporting like goods for the

private sector. The Carrier is authorized to certify that the service performed under this contract is entirely for the benefit of the Government so as to permit the offer of service at free or reduced rates under the former 49 U.S.C. 10721, now preserved under Sections 10721 and 13712 as above. All Contractors will comply with provisions of the Jones Act (46 USC 883) with the exception of intra-island service between Puerto Rico and the US Virgin Islands, which is governed by 46 USC 877.

### **2.3. Cargo**

Cargo moving in containers may be mixed loads or straight loads. All cargo shall be stowed such that it is protected from damage due to exposure to the elements.

### **2.4. Carriage**

Carriage of cargo will be on a liner term basis. Cargo will be loaded and discharged at commercial terminals at the Carrier's ports of call. The Government will require the Carrier to furnish, stuff, and strip containers. Consistent with vessel safety, when on deck stowage is necessary, containers with mail and personal property will, to the maximum extent possible, be loaded below the third tier.

### **2.5. Delivery Orders**

The shipper will prepare a delivery order as mutually acceptable by the parties. The delivery order shall be evidence of ownership and will constitute the contract of carriage issued to the ocean Carrier.

### **2.6. Normal Government Business Hours/Hours of Operation/Business Day**

Normal Government Business Hours are considered to be Monday through Friday, 0800 hours through 1700 hours, with U.S. Federal Holidays excepted. Such days are defined as Business Days. Where U.S. Government offices also observe local holidays, e.g., Puerto Rico or U.S. Virgin Islands, etc., these holidays are also excluded from Normal Government Business Hours. All references in this contract to compliance or observance of Normal Business Hours will use this definition.

In addition, Carriers are expected to be aware of local office hours of operation for each U.S. Government facility with which they will transact business, and will schedule transactions accordingly. Hours of Operation for all Transportation Facilities may be found in the Transportation Facility Guide (TFG). Carriers are expected to monitor the most current copy of the TFG for possible changes, updates or short term notices.

### **2.7. Electronic Carrier Payment**

Carriers will be paid through Automated Fund Transfer (AFT) using the PowerTrack system, a product of US Bank, Inc. Payment will be made after cargo has been lifted. A satisfactory comparison of shipping instructions and Carrier lift reports will be the basis for effecting payment to Carriers. All Carriers a party to this contract must have an agreement with US Bank and be PowerTrack certified for the electronic payment of transportation services. See attachment XX for details of Sealift Carrier Payment via Powertrack. EXCEPTION: Carriers will be paid for shipments of Privately Owned Vehicles (POVs) in accordance with payment procedures of the Global POV Contract (See Paragraph 3.3.6 and Ref 3). See also Paragraph 2.16.3 for payment by Authorized Agents. See also Paragraph 2.17.2 for Bunker Adjustment Factor (BAF) payments.

**2.8. Excepted Category Cargo**

Excepted category cargoes are listed below. The CO is not required to ship excepted category cargo with the Carrier under this Contract. At the option of the CO, pursuant to the Changes Clause of FAR 52.212-4, such excepted category cargoes may be shipped with the Carrier at rates negotiated prior to booking. The Carrier shall not accept excepted category cargo for shipment unless a rate for its carriage has been negotiated with the CO. Cargo categories not excepted below and for which specific rates do not appear herein, shall be carried at the applicable General Cargo rate.

- Aircraft (unboxed)
- Bulk Cargo (not Containerizable, in tank cars, trailers or containers)
- Unit movement of military personnel and support equipment
- Explosives other than IMO class 1.4 (small arms ammunition)

**2.9. Limitations of Contractor's Obligation****2.9.1. Hazardous Cargo and Rejection of Hazardous Cargo**

The Contractor has the right to reject hazardous cargo including explosives; or any cargo deemed to be dangerous or obnoxious in character other than such cargo for which a specific commodity rate is provided herein. The Contractor must refuse to transport hazardous cargo either by land or by ocean, which does not conform in all aspects to applicable U.S. or foreign Governmental regulations.

**2.9.2. Contractor Policy Exclusion of Cargo**

Contractors will identify to the PCO any cargoes, which are precluded from carriage due to Contractor policy (versus regulatory preclusion) prior to award. Unless Contractors have specifically identified which commodities are precluded from shipment on their vessels, Contractors must accept all commodities when they are packaged, labeled, and documented in compliance with regulatory requirements. Contractors must notify the CO of any changes to the precluded hazardous cargo list during the contract period.

**2.10. Commitment of Cargo****2.10.1. Military and Military Sponsored Cargo**

During the period of this Contract and subject to provisions set forth below, the Government will ship all military and military sponsored cargo offered for commercial transportation in the Defense Transportation System between points and ports in CONUS and Alaska or CONUS and Puerto Rico and the U.S. Virgin Islands under contracts awarded pursuant to this solicitation.

**2.11. Recurring Service Failure Resolution**

The CO reserves the right to obtain service from another source when: the Contractor is unable to provide the service specified within this contract, or the Contractor fails to complete ordered service within the time and service requirements described in a Performance Objective (including Performance Measure and Performance Standard, where applicable), where a systemic problem exists in the judgment of the CO.

**2.11.1. Government Notice of Service Failure**

The CO will provide the Contractor with prompt written or electronic notice of the Contractor's inability to provide the required service before obtaining service from another source. The action by the Government to obtain service from another source is a remedy independent of other remedies provided in this contract, will not necessarily constitute "default" or require remedies in this contract for default, will not preclude the Government's rights in the event of Contractor default, and will not preclude the Government's use of other remedies provided in the contract.

**2.11.2. Cancellation of Minimum Volume Commitment Due to Service Failure**

In the event the Government must obtain service from an alternate contractor, the associated volume will be deducted from the Contractor's minimum volume commitment (MVC) and will not be counted towards the alternate Contractor's MVC (if any).

**2.11.3. Evidence of Correction of Systemic Service Failure Problem**

The Contractor must provide the Government evidence that it is once again capable of providing service in accordance with the contract requirements and the CO will promptly decide whether that evidence warrants reinstatement of the Contractor's service.

**2.12. Additional Service**

During the effective period of this contract, the Government may obtain additional service not specifically identified in the schedule, but within the general scope of the Carrier's service covered by this contract, including but not limited to Excepted Category Cargo. Such service may be obtained from contract holders, as appropriate, pursuant to the Changes Clause FAR 52.243-1, Alternate IV (April 1984). The effective period of rates so established shall terminate upon the expiration of the contract performance period specified in Deliveries and Performance Clause, herein, unless specified otherwise by the CO.

**2.13. Maximum Cargo**

The maximum cargo to be shipped under this solicitation for trade routes identified herein must not exceed total dead weight capacity with all Contractors during the term of these documents

**2.14. Dead Freight**

The Government shall not be liable for payment of dead freight.

**2.15. Voluntary Intermodal Sealift Agreement (VISA) Program****2.15.1. VISA Enrollment Award Preference Requirement**

In compliance with the U.S. Cargo Preference Act of 1904 (10 U.S.C. 2631), U.S. Flag Carriers will be given preference for award of contracts resulting from this solicitation. MTMC recognizes the continuing need for a formalized program for the acquisition of sealift augmentation under less than full mobilization. Enrollment of a Carrier's U.S. flag fleet in an authorized sealift readiness program establishes an award preference for participants under this procurement.

The Sealift Readiness Program (SRP), implemented in Fiscal Year (FY) 1970, provided a formal agreement between the U.S. flag ocean Carriers and the Government for the acquisition of ships and related equipment under less than full mobilization. On January

30, 1997, the Secretary of Defense (SECDEF) approved the Voluntary Intermodal Sealift Agreement (VISA) as an alternative to the SRP for the purposes of Section 909 of the Merchant Marine Act of 1936. VISA also satisfied the requirement of Section 653 of the Maritime Security Act (PL 104-239) for an Emergency Preparedness Program approved by the SECDEF.

#### **2.15.2. Stages of Contingency**

VISA provides for three, time-phased stages of activation for a contingency. Each stage will be activated, as needed, to support contingency operations. VISA Stages will be activated by United States Transportation Command (USTRANSCOM) with SECDEF approval.

Stage I would be implemented at the beginning of a contingency to meet early DoD surge, sustainment, and ammunition movement requirements that could not be met with organic and voluntary capacity. Stage I activation would potentially cause the most immediate and potentially severe disruption to a Carrier's peacetime service.

Stage II would be activated with an expectation of less impact on peacetime commercial service when contingency requirements exceed the capability of Stage I plus any additional voluntarily committed resources.

Stage III provides for additional capacity to DoD when Stages I and II commitments and volunteered capacity are insufficient to meet contingency requirements, and adequate shipping services from non-Participants are not available through established DoD contracting practices or U.S. Government treaty agreements. Once Stage III is activated, SECDEF will request the Secretary of Transportation (SECTrans) to allocate sealift capacity based on DoD requirements in accordance with Title I of The Defense Production Act of 1950 and implementing regulations.

#### **2.15.3. Preference for VISA Participants**

For contract awards and resultant cargo bookings, VISA participants will receive preference over non-VISA participants, in accordance with the VISA participant categories described below. As a condition of such award preference, each Participant in the VISA program must remain in good standing during the entire period of the contract and maintain its level of commitment as detailed on MTMC Form 4280/9. The volume of peacetime cargo offered to the Contractor is a function of the Contractor's commitment of U.S. flag ocean vessels and intermodal service capacity under the terms and conditions of the VISA which are incorporated herein.

A Carrier unable or unwilling to maintain its VISA commitment in terms of specific vessel capacity as reflected in its MTMC FORM 4280/9, Voluntary Enrollment Contract (VECI), must notify the CO immediately. Upon such notification, the Government reserves the right to negotiate an equitable adjustment or to exercise other contractual remedies as appropriate.

NOTE: The expression "United States Flag Fleet" as U.S. Flag ships and U.S. Flag vessels herein refers only to the dry cargo vessels and tug/barge combinations in the Carrier's United States Fleet.

**2.15.4. VISA Booking Priority**

In accordance with the Voluntary Intermodal Sealift Agreement (VISA), the following categories of VISA participant status shall be applied in descending order, when booking cargo shipments in the Defense Transportation System. The following priority order applies to each individual Route contained in this contract.

**2.15.4.1.**

U.S. Flag vessel capacity operated by a VISA “Participant” that has made a current, minimum commitment of its U.S. Flag vessel capacity to Stages I, II and III of VISA OR that has made a current, minimum commitment of its Jones Act capacity (capacity exclusively engaged in the domestic trades) to Stage III of VISA and a current, minimum commitment of the remainder of its U.S. Flag vessel capacity to Stages I, II and III of VISA OR, with regard to an offer for a long-term charter to DoD, that has made a current, minimum commitment of its U.S. Flag vessel capacity to Stage III of VISA. The U.S. Flag Vessel Sharing Agreement (VSA) capacity of such a Participant also is grouped in this category of priority.

**2.15.4.2.**

U.S. Flag vessel capacity operated by a VISA “Participant” that has made a current, minimum commitment of its U.S. Flag vessel capacity to Stage III of VISA and the U.S. Flag Vessel Sharing Agreement (VSA) capacity of such a Participant.

**2.15.4.3.**

U. S. Flag vessel capacity operated by a non-Participant.

**2.15.4.4.**

Combination U.S./foreign flag vessel capacity operated by the kind of “Participant” described in paragraph 1 above and/or the combination U.S./foreign flag VSA capacity of such a Participant.

**2.15.4.5.**

Combination U.S./foreign flag vessel capacity operated by the kind of “Participant” described in paragraph 2 above and/or the combination U.S./foreign flag VSA capacity of such a Participant.

**2.15.4.6.**

Combination U.S./foreign flag vessel capacity operated by a non-Participant.

**2.15.4.7.**

U.S. owned or operated foreign flag vessel capacity and/or VSA capacity of the kind of “Participant” described in paragraph 1 above.

**2.15.4.8.**

U.S. owned or operated foreign flag vessel capacity and/or VSA capacity of the kind of “Participant” described in paragraph 2 above.

**2.15.4.9.**

U.S. owned or operated foreign flag vessel capacity and/or VSA capacity of a non-Participant.

**2.15.4.10.**

Foreign-owned or operated foreign flag vessel capacity of a non-Participant, if a particular shipment's requirements cannot be met by any of the booking priority categories.

**2.16. Shipments By Authorized Agents of The Government****2.16.1. Authorized Agent Shipments**

The following provisions apply only for authorized agent shipments that include, but are not limited to, shipments of Military Household Goods (MHHG), International Through Government Bill of Lading (ITGBL) Carriers, and privately owned vehicles (POV) by Global POV Contractors (See Attachment 3).

**2.16.1.1. Booking of Cargo**

Shipments booked by authorized agents will be booked in accordance with the instructions provided by MTMC OPS based on best value criteria used to award cargo on all routes, consistent with VISA priorities.

**2.16.1.1.1.** Shipper agrees to offer cargo for booking upon no less than five (5) working days notice prior to a port departure date unless a later time is agreed upon by the parties. The Contractor providing the transportation service must accept an offering of cargo and notify the Shipper of such acceptance (see Paragraph 3.6.4).

**2.16.1.1.2.** The shipper will prepare a Delivery Order in a format as mutually acceptable by the parties. The Delivery Order shall be evidence of ownership and will constitute the contract of carriage issued to the Contractor.

**2.16.2. Submission of Status Reports**

Contractors must provide reports to the authorized agent who ordered the transportation services as prescribed in paragraph 3.18.3; however, rather than reporting at the Transportation Control Number (TCN) level, the Contractor may report by Delivery Order when mutually agreeable by the parties.

**2.16.3. Payment**

The authorized agent shall make payment directly to the Contractor providing ocean service thirty days after receipt of an invoice. The Contractor must invoice directly to the Authorized Agent for payment of services rendered to include detention. The Contractor must notify the CO if payment is not received within forty-five (45) days after submission of invoices to the authorized agents.

**2.16.4. Detention Invoices**

The authorized agent ordering services from the ocean Carrier is responsible for certification and payment of all detention charges applicable under this contract.

**2.17. Bunker Adjustment Factor (BAF)****2.17.1. BAF Allowance**

An allowance for fluctuations in marine fuel prices shall be paid to the Carrier(s) or to the Government in accordance with the following:

**2.17.1.1. Application of BAF to Cargo**

The allowance shall be paid per freight payable unit of cargo. For Containerizable goods, these units are twenty foot and forty foot containers. For breakbulk cargo they are measurement tons. The compensation per freight payable unit will be derived by

multiplying the appropriate technical factors from the table below times the one-month average fuel price and dividing by the baseline fuel price. The Bunker Adjustment Factor is zero unless the one-month average fuel price is twenty percent (20%) higher or twenty percent (20%) lower than the baseline average fuel price.

**2.17.1.2. Base Period for BAF**

The base period for this contract is the thirteen-week period immediately preceding the due date for initial proposals. Should the option to extend the contract be exercised, the base period for the option period will be the thirteen (13) week period immediately preceding the due date for proposals for the option period.

**2.17.1.3. Applicable Ports for Calculating BAF**

BAF shall be calculated using Norfolk (ex-wharf) prices for routes to Puerto Rico and Los Angeles (ex-wharf) prices for routes to Alaska.

**2.17.1.4. Calculating BAF**

A one-month average fuel price will be computed by MTMC for Los Angeles and Norfolk. The one-month average price will be calculated from the 16<sup>th</sup> of the month to the 15<sup>th</sup> of the next month and will apply to shipments booked for sailings in the following month. Example: The average fuel prices for calculation of BAF charges for March will be calculated from the average of bunker quotes published from 16 January through 15 February, inclusive.

**2.17.1.5. Time Frame Affecting BAF Charges**

The scheduled month the vessel departs at the load port at the time of booking shall determine the month for calculation of BAF charges.

**2.17.1.6. BAF Quotes**

For Norfolk and Los Angeles ports separately, the daily high and low quotes for Heavy Oil and Marine Diesel from the “Bunkerdesk” published by Petromedia Limited, London will be averaged to produce the average quote for each type of fuel for the day. These prices are quoted in metric tons and shall be converted to barrels by dividing by 6.55. The Heavy Fuel Oil and Marine Diesel Oil average quotes will then be averaged to calculate the daily average fuel prices for Norfolk and Los Angeles. Prices for bunkers on weekends/holidays or other days that Bunkerdesk is not published or otherwise not available will not be included in the calculation.

**2.17.1.7. Bunker Adjustment Factor Changes on MTMC Web Site**

MTMC will monitor these prices and calculate and post Bunker Adjustment factors to the MTMC web site.

**2.17.2. Payment Procedures – PowerTrack**

For shipments paid using PowerTrack/US Bank, the BAF will be fixed at the time of booking and will be based on the date the booked vessel is scheduled to sail. When BAF is payable, shippers will include the applicable BAF amount (plus or minus) to all shipments paid to the Carrier via their own documentation and payment system at the time that the original transactions are sent to PowerTrack. Carriers invoicing PowerTrack will include the applicable BAF amount (plus or minus) in their invoice.



**2.17.2.1. Payment Procedures – Other**

All other Contractors are responsible for indicating on their shipment invoice whether a fuel payment is due them, whether no fuel payment is to be made or whether a fuel payment is due MTMC. If a fuel payment is due the Contractor or MTMC, the Contractor must compute the value of the payment (or credit) and indicate this on the shipment invoice. If no fuel payment is due, Contractors invoices shall indicate “No Fuel Adjustment”. BAF for authorized agent shipments will be paid using this process.

**2.17.3. BAF Adjustment Applicability**

The fuel adjustment applies to Contractor purchases of fuel from normal commercial suppliers and does not apply when fuel has been provided or subsidized by the U.S. Government or foreign Governments.

The technical factors and their freight payable units are shown below:

**Technical Factors**

<b>Route</b>	<b>Payable Unit</b>	<b>Factor</b>
Alaska - ocean	20 foot container	1.51
	40 foot container	2.51
	Breakbulk	0.05
Alaska - tug	20 foot container	1.41
	40 foot container	2.34
	Breakbulk	0.13
Puerto Rico - ocean	20 foot container	2.13
	40 foot container	3.55
	Breakbulk	0.05
Puerto Rico - tug	20 foot container	0.58
	40 foot container	0.96
USVI	20 foot container	2.13
	40 foot container	3.55
	Breakbulk	0.05

**2.18. Carrier Protection From Competition**

Carriers offering service on a route shall, during the period of this contract, be protected from the competition of carriers who hold contracts for that route or other routes as follows:

**2.18.1. Rate Protection**

Should a Carrier reduce its ocean, linehaul, or single factor rates on routes during the period of this contract, its competitive position shall be determined on the basis of its initial rates.

**2.18.2. Other Carrier Participation**

A Carrier who, after the date for responses to the Request for Proposals (RFP) which resulted in this contract, begins common carrier or contract Carrier operations on the routes but did not submit an offer under that RFP, will be considered for a contract at a

negotiated rate level, but such Carrier's rates will not be utilized except as necessary when capability from Carriers which already hold a contract is not available to meet the requirement.

### **2.18.3. Failure to Sail**

The Government is not obligated to utilize a Carrier who receives an award under the RFP and fails to have a sailing within thirty (30) days after the effective date of this contract, or such later date acceptable to the PCO, on any route for which it has offered rates for the effective period of this contract, or who fails thereafter to maintain a regular Carrier service on such route. If a later date than specified above is accepted, the Government is not obligated to utilize such a Carrier before such date, nor in the Government so obligated unless the Carrier has a sailing within thirty days of such a date and thereafter maintains a regular Carrier service on such route. However, nothing in this clause restricts the Government from utilizing such Carrier service when the capability of Carriers receiving awards under the RFP (and otherwise meeting the requirements of this paragraph) is not available.

### **2.19. Multiple Award Task Order Contract and Delivery Order Contract Ombudsman**

In accordance with FAR 16.505(b)(5), the following individual has been appointed as ombudsman for multiple award task order and delivery order contracts issued by this organization:

Mr. Francis Giordano  
Military Traffic Management Command  
Attn: MTAQ-D, 12S45  
200 Stovall Street, Hoffman Building II  
Alexandria, Virginia 22332-5000  
Telephone: 703-428-3300  
Facsimile: 703-428-3364  
Email: [giordanof@mtmc.army.mil](mailto:giordanof@mtmc.army.mil)

#### **2.19.1. Reviewing Contractor Complaints**

The ombudsman has the authority to review Contractor complaints that they have not been afforded fair opportunity to be considered for award of a particular task order or delivery order under a multiple award contract.

#### **2.19.2. Submitting Contractor Complaints to the Ombudsman**

A Contractor who receives an award under a multiple award contract may contact the ombudsman with a complaint concerning the award of a particular task order or delivery order placed under the multiple award contract.

##### **2.19.2.1. Time Limit for Complaint Submission**

The Contractor is encouraged to try to resolve the issue with the CO prior to contacting the ombudsman. However, Contractor complaints to the ombudsman must be made within five (5) workdays of the award under complaint.

**2.19.2.2. Limit of Ombudsman Authority**

The ombudsman's authority is limited to issues pertaining to the awarding of task orders and delivery orders under multiple award contracts. Contractor complaints directed to the ombudsman shall be confined to these issues. All other complaints will be outside the authority of the ombudsman and will be returned to the Contractor without action.

**2.19.3. Ombudsman Determination of Findings**

Upon review of the facts, the ombudsman will determine whether or not the Contractor was afforded a fair opportunity to be considered consistent with the procedures in the contract and either deny the Contractor's Complaint, or require that the CO take corrective action regarding the complaint.

**2.19.4. Final Resolution of Complaints**

If the CO does not agree with the ombudsman's decision, the issue shall be referred to the MTMC Principal Assistant Responsible for Contracting for final decision.

**2.19.5. Ombudsman Process Not Replacing Disputes Clause**

These ombudsman procedures are not subject to FAR 52.233-1, Disputes, with or without its Alternate I found elsewhere in this contract.

**2.20. Management, Quality Control, Reporting and Records****2.20.1. Management**

The Contractor shall establish and maintain a Management Plan to indicate how service will be managed, coordinated and maintained for all customers. The Management Plan shall include a Risk Management paragraph or chapter that will detail all significant risks identified by the Contractor, the likely impact of such risks if not mitigated, and the approach the Contractor will take to minimize or mitigate all identified risks. The government recognizes that minimized time on ocean transit reduces risk to cargo and to meeting objectives, such as Required Delivery Dates. Therefore, the government places high value on minimizing this risk. This is especially true for transit of refrigerated cargo to Puerto Rico, and Carriers may expect that contract awards and awards of delivery orders under Best Value consideration will evaluate this factor highly. The Contractor shall submit a proposed Management Plan as part of its technical proposal. This Plan should include as a minimum how the contractor intends to meet scheduled deliveries, to meet unique customer requirements, and identification of risks and how the Contractor will minimize risks, especially transit risk. Average transit times proposed by the contractor for lanes they are proposing against will be considered.

**2.20.2. Quality Control**

The Contractor shall establish and maintain a Quality Control Plan (QCP) to ensure quality service is provided throughout the terms of the contract. The Contractor shall submit a proposed QCP as part of its technical proposal. The QCP should include as a minimum how the Contractor intends to meet the performance objectives, and should also identify those areas the Contractor sees as critical to the customers for this contract, how it will monitor quality performance in those areas, and how it will maintain or exceed customer expectations, including identification and correction of problems.

**2.20.2.1. Final QCP**

The Contractor shall submit a final QCP within thirty (30) days after contract award based on Government feedback at contract award.

**2.20.2.2. Problem/Failure**

The Contractor shall self-identify any problem or failure that may impact contract performance. In accordance with its QCP, the Contractor shall provide the COR with a succinct written plan of action within ten (10) business days of Contractor self-identification or awareness of a potential or real problem, failure or deficiency. The Contractor shall detail the methodology for correcting the problem or deficiency in the plan of action, and provide an assurance of the specific time required to bring performance back to acceptable quality levels, as applicable.

**2.20.3. Customer Service Assistance**

The Contractor must establish/designate a Customer Service activity to be responsive to Government activities that require assistance. Government activities must be able to contact a person representing the Contractor throughout the business day to obtain expert assistance in answering questions, exchanging information and resolving problems. A single focal point for each Government activity is desirable. The Contractor will provide specific points of contact for each Government shipper no later than seven (7) days after contract award.

**2.20.4. Performance Requirement Summary (PRS)**

The Government will monitor the Carrier's performance through the Government Performance Requirements Summary (PRS), see below Table, to be used in this program, and is provided for the Convenience of the Carrier. Other Performance Objectives not addressed in the PRS will be monitored by exception. This PRS is to be used for administrative purposes only and does not reflect a change in the contract requirements. To the extent any conflict may arise between the use of the PRS and the substantive provisions of this contract, the substantive provisions of this contract shall apply.

<b>Performance Objective No.</b>	<b>Measures</b>	<b>Performance Standard (AQL)</b>	<b>Surveillance Method</b>	<b>Government Actions</b>
<b>P.O. # 22</b>	Orders Accepted	98%	Contractor Reports and Government data plus spot checks	Random Checks; Evaluate Contractor quarterly
<b>P.O. # 24</b>	Required Delivery Date met	98%	Contractor Reports and Government data plus spot checks	Random Checks; Evaluate Contractor quarterly
<b>P.O. # 27</b>	Frequency of Service: Late Cancelled	NMT 5% 1 day or more late NMT 1%	Contractor Reports and Government data plus spot checks	Random Checks; Evaluate Contractor quarterly

**Performance Requirement Summary (PRS) Table: Critical Performance Objectives**

**2.20.5. Performance Measurement Approaches**

The CO and the COR will monitor Contractor performance and compliance with the terms and the conditions of the contract using the PRS and such other standard techniques as inspections, Government generated management reports, Carrier reports and customer feedback. The COR, in conjunction with the CO, will conduct periodic meetings (apart from the Quality Council) with the Contractor to discuss operations, and problem areas.

**2.20.6. Use of Quality Performance Information**

Performance data and contract compliance will be provided to OOs as part of information used in determining best value Contractors. Information from the reports will be compiled cumulatively to provide annual reports of past performance for use in past performance evaluations for future awards.

**2.21. Quality Council****2.21.1. Council Meetings**

In order to identify and resolve potential operational problems and to achieve continuous process improvement, the Government shall establish a Quality Council. Quality Council members may include representatives of the Carrier, Ocean Cargo Booking Office (OCBO), Ocean Cargo Clearance Authority (OCCA) and Shipper services, as well as the Contract Administrator(s), Technical Representatives, Shipper Representatives, and the CO.

The Quality Council shall meet on a semi-annual basis, or as needed, to identify, monitor, and recommend solutions to operational problems arising during the term of the contract. Recommendations for process improvement will be elevated to the Procuring Contracting Officer or his/her designated representative and the designated Carrier representatives for consideration, approval and negotiation of contract modifications as applicable.

**2.21.2. Performance Requirements**

Performance Requirements in this document are expressed in the following manner and may contain the following three elements. In each case, when taken together, these elements constitute a performance requirement.

**2.21.2.1. Performance Objective**

A statement of the outcome or results expected of the Contractor (not output).

**2.21.2.2. Performance Measures**

The critical few characteristics or aspects of achieving the objective that will be monitored by the Government, those things that the Government will analyze. Each objective may have one or more measures.

**2.21.2.3. Performance Standards**

The targeted level or range of levels of performance for each performance measure also referred to as Acceptable Quality Level (AQL).

**2.21.2.3.1.** Not every performance objective in this contract has a related performance measure or performance standard. However, every performance objective is a contractual requirement. For those performance objectives that do not specify a measure or standard, the measures and standards are IAW standard commercial practices,

i.e., substantial compliance with local customary trade practice. When not stated, Performance Standards are assumed to be one hundred (100) percent, unless standard commercial practices would apply a lower standard.

**2.21.2.3.2.** Performance measures/standards, where specified, may be used to achieve a variety of goals, including collection of data to test the practicality of a performance standard; identification of a performance standard of less than one hundred (100) percent compliance; emphasis on most critical performance objectives; collection of data to support quality assurance and contractual remedies (including evaluation of past performance, discussion at Quality Council meetings, etc.) and similar goals.

**2.21.2.4. Custom of the Trade**

Wherever the standard of performance by either party is not provided under the provisions of this contract, the “Custom of the Trade” shall be used as a standard of performance. This phrase shall mean the established practice generally accepted by the trucking, rail and marine shipping industries for cargo transportation service in the geographic area where such services are performed.

### **3.0 PERFORMANCE WORK STATEMENT (PWS) - DESCRIPTION OF SERVICES**

#### **3.1. General Basic Common Service Requirements**

##### **3.1.1. Basic Service**

The Carrier's basic service shall consist of furnishing to the Government clean, empty, odor-free ISO standard containers on fully operable chassis or trailers, at a specific point designated by the OO, such as a warehouse door or loading platform, in a timely manner; moving the stuffed container/trailer between this point and the Carrier's commercial terminal; receiving and handling the stuffed container/trailer at its loading terminal; loading and transporting the container/trailer on the Carrier's vessel; discharging and handling the container/trailer at the Carrier's receiving terminal; and, delivering the container/trailer to a place designated by the customer by the Required Delivery Date (RDD).

##### **3.1.1.1. Spotting/Ordering Empty Containers/Trailers**

The OO will give the Carrier at least two working days notice as to where to spot a Carrier furnished empty container/trailer for stuffing by the Government. The notice will include the type and size of container/trailer required by the Government, the name and address of the shipper, the date and approximate time (AM or PM) for spotting the container/trailer. The Carrier shall not furnish a container/trailer of a different dimensions than that ordered without the written consent of the COR. If the OO allows the Carrier to substitute a larger size container/trailer than booked, and the loaded shipment does not exceed the dimensions of the size container/trailer originally ordered, the Government will pay for the size ordered. If the loaded shipment exceeds the dimensions of the size of container/trailer originally ordered, the Government will pay for the size container/trailer actually furnished.

##### **3.1.1.1.1. Performance Objective 01 - Spotting Containers/Trailers.**

The Carrier shall spot empty containers/trailers by the designated date and time.

##### **3.1.1.2. Failure to Spot and Remedies**

When the Carrier fails to spot an empty container by the designated date and time, and as a result there is not reasonable time to allow stuffing and release of the container in sufficient reasonable time to meet the scheduled sailing date of the vessel to which the container is booked, the Carrier shall be liable either for the payment of liquidated damages or for the reimbursement of expenses incurred by the Government to obtain alternate transportation of the container. The Government shall also be entitled to cancel the booking of such cargo.

##### **3.1.1.3. Liquidated Damages**

Liquidated damages shall be equal to the detention charges in Section 3.21 for each twenty-four (24) hour period, or pro-rata for part thereof, from the time of completion of loading of the vessel to which the container was originally booked to the time of commencement of loading of the Carrier's next scheduled vessel to the port of destination

to which the container was booked. If the Government cancels the booking, the Carrier's liability for liquidated damages shall be limited to the period ending with cancellation.

**3.1.1.4. Alternate Transportation**

If the Government elects to employ alternate intermodal surface transportation to move the container to another port, the Carrier shall be liable for any expenses or costs incurred by the Government above the expenses that normally would have been incurred had the container been furnished by the designated time and date.

**3.1.1.5. Government Responsibility for Failure**

Neither liquidated damages nor charges for Government expenses will be assessed if the Carrier can establish: 1) that the inability to spot the container as agreed is the result of the Government's failure to unstuff and release an empty container to the Carrier within a reasonable time to meet the required spot date; 2) that it advised the OO of such inability at least seven (7) calendar days prior to the required spotting date; and 3) that the Carrier only accepted bookings which could reasonably be expected to be fulfilled.

**3.1.1.6. Delay in Spotting**

When the Carrier fails to spot an empty container by the designated date and time, and as a result the Government must incur overtime expenses to enable stuffing and release of the container by the Government prior to the scheduled sailing date of the vessel, the Carrier shall be liable for payment of liquidated damages equal to the total overtime expense incurred by the Government.

**3.1.1.7. Government Liability for Containers Spotted But Not Used**

In the event the OO orders and the Carrier delivers an acceptable container which is subsequently released without utilization, the Government shall, nevertheless, pay to the Carrier the applicable drayage/linehaul charge for such container as though it had actually been used between the place of stuffing and the Carrier's loading terminal. If the container is subsequently ordered to be delivered at another place, the Government shall pay the Carrier the applicable stop-off charge as if a stop-off service had been ordered.

**3.1.1.8. Container/Trailer Pickup**

**3.1.1.9. Performance Objective 02 – Pickup Containers/Trailers. The Carrier shall pick-up a stuffed container/trailer from the Government facility within one working day, and shall pick-up/remove an empty container/trailer from the Government facility within three working days, time commencing at 0800 hours on the day following receipt of notification that the container/trailer is ready to be transported.**

**3.1.1.10. Chassis Requirement**

**3.1.1.10.1. Performance Objective 03 – Container on Chassis.** The Carrier shall deliver containers to the Government on a chassis, which shall remain with the containers while they are in the custody of the Government, unless the local receiving facility waives this requirement.



### **3.1.1.11. Refrigerated Service**

**3.1.1.11.1. Performance Objective 04 – Refrigerated Container.** The Contractor shall provide required refrigerated containers/trailers to the stuffing activity that will maintain temperature within three (3) degrees Fahrenheit of the in-transit temperature specified for controlled atmosphere and straight chill requirements, and within five (5) degrees Fahrenheit for frozen requirements, in accordance with the booking, including pre-cooling, when ordered. The Contractor is responsible to maintain all equipment in working order from pickup from the stuffing activity through to destination, including during the free time allowed under this agreement, to include generator refueling and electrical power. This fuel shall be provided at the Carrier's expense.

**3.1.1.11.2. Performance Objective 05 – Temperature Recording.** The Contractor shall provide continuous measurement of internal temperature using a Ryan type recorder or equivalent.

**3.1.1.11.3. Performance Measure - Evidence of thawing, freezing, spoilage or temperature deviation from required limits.**

### **3.1.2. Overweight Containers and Notification by Carrier**

At the time of ordering, the Carrier shall notify the OO if the maximum cargo weight which can be loaded into a container that is to be stuffed by the Government is more than the standard legal maximum cargo weight capacity for the container, and the reason therefor. The Contractor will also advise the OO when the combined cargo weight of the loaded container and chassis exceeds the allowed highway axle weight. See also Paragraph 3.3.3.

### **3.2. Accessorial Services**

#### **3.2.1. Definition of Standby Time**

Driver stand-by time commences after expiration of driver free time, and ends when the conveyance is Available for Onward Movement (See Definitions). Charges based on time are computed by multiplying the hourly rate by the time involved. When fractions of an hour are used, the charges will be as follows: fifteen (15) minutes or less equals one quarter hour; sixteen (16) to thirty (30) minutes equals one-half hour; thirty-one (31) to forty-five (45) minutes equals three quarters hour; excess of forty-five (45) minutes equals one hour. See Accessorial Tables for rates.

#### **3.2.2. Split Delivery/Pick-up Service**

Split Delivery/Pick-up Service is defined when cargo in a container/trailer must be delivered to or picked up from more than one location on a single installation.

##### **3.2.2.1. Performance Objective 06 – Split Delivery/Pick-Up**

When ordered by the OO, after initial delivery or initial pickup of a container/trailer has been completed, the Carrier shall move a specified conveyance from one load/off-load station on a facility to another load/off-load station within that same facility. This service shall include one (1) hour of driver free time, from the time of driver arrival for the initial

delivery or pickup. Charges for Split Delivery/Pick-up are located in the Accessorial Rate Tables.

### **3.2.3. Re-spot Service**

#### **3.2.3.1. Performance Objective 07 – Re-spot of Containers/Trailers**

When requested by the OO, the Carrier shall move a container from one point on a facility to another point on that facility. Charges are located in the Accessorial Rate Tables.

### **3.2.4. Stop-Off Service**

Stop-Off Service is defined either when a container/trailer contains cargo that must be delivered to more than one en-route delivery location, or when a container/trailer is to be stuffed at more than one en-route location.

#### **3.2.4.1. Performance Objective 08 – Stop-Off**

The Carrier shall spot a container at a place designated by the OO for additional stuffing/un-stuffing prior to final stuffing/un-stuffing being completed. Charges are located in the Accessorial Rate Tables.

### **3.2.5. Transloading Service**

Transloading service shall consist of shifting the contents of a full containerload or truckload of cargo directly from one container/trailer to another at its terminal.

#### **3.2.5.1. Performance Objective 09 – Transloading**

When specifically ordered by the OO, the Carrier shall transload cargo. The integrity of cargo units delivered to the Carrier for transloading shall be maintained throughout the shipment. The Carrier shall not change the integrity of the cargo's configuration, i.e. break palletized loads without prior approval of the OO. In addition, the Carrier shall not commingle commercial cargo with Government cargo under this service. Charges are located in the Accessorial Rate Tables.

### **3.2.6. Stuffing Service**

#### **3.2.6.1. Performance Objective 10 – Container/Trailer Stuffing**

When ordered by the OO, the Carrier shall stuff cargo suitable for containerization or loading in a trailer at their terminal, and then consolidate, segregate, tally, and stuff the cargo into containers/trailers and sealing the containers/trailers. The integrity of cargo units delivered to the Carrier for stuffing shall be maintained throughout the shipment, consistent with the stowage capability of the Carrier's containers. The Carrier shall not change the integrity of the cargo's configuration (break palletized loads) without prior approval of the OO. The Carrier may, unless otherwise directed by the OO or restricted by applicable regulations, commingle Government cargo with commercial cargo. Charges are located in the Accessorial Rate Tables (Palletized Rate).

### **3.2.7. Stripping, Sorting, and Consolidation Service**

#### **3.2.7.1. Performance Objective 11 – Stripping, Sorting and Consolidating Cargo**

The Carrier shall strip, sort, and/or consolidate cargo while unstuffing a container/trailer, separating cargo by consignee, and grouping cargo lots by Consignee at the destination point. Charges are located in the Accessorial Rate Tables (Hand Stacked Rate).

**3.2.8. Terminal Handling Service**

When directed by the OO, the Carrier shall receive and handle cargo not incidental to the ocean movement of cargo at origin or destination ports. Charges are located in Accessorial Rate Tables.

**3.2.9. Delivery Outside Normal Business Hours**

When ordered by the OO, the Carrier shall deliver cargo at the ultimate destination not later than the start of normal business hours, nor before the end of normal business hours. Carriers will be compensated for this service at the rates set forth in the Accessorial Rate Tables.

**3.2.10. Container/Trailer Overlength Surcharge**

When containers/trailers either exceeding twenty (20) feet and less than forty (40) feet or exceeding forty (40) feet are ordered by the OO, the accessorial surcharge for the applicable container/trailer shall be added to the basic ocean rate. These charges are located in the Accessorial Rate Tables.

**3.2.11. Flatrack Container Surcharge**

Carriers will make flatracks available under the same terms and conditions as the Carriers container service. Cargo shipped in flatrack containers shall move at the general container ocean rate plus a flatrack surcharge set forth in the Accessorial Rate Tables.

**3.2.12. Hazardous Cargo Surcharge**

This charge applies to the movement of hazardous cargo requiring on deck stowage per Coast Guard regulations. These charges are located in the Accessorial Rate Tables.

**3.2.13. Mileage Table**

These tables are provided for those few instances where no rates were requested, i.e., to be used in conjunction with bi-factor rates. Mileage rates for any specific points are intended to be used for a period not to exceed sixty (60) calendar days. Should a requirement exist beyond the sixty (60) days, a point-to-point, ongoing rate shall be negotiated pursuant to the Changes Clause. Also see paragraph 3.35.3.

**3.2.14. Refrigerated Container Differential**

A refrigerated container differential will apply to the motor linehaul portion of a bi-factor move. The refrigerated container differential, set forth in the Accessorial Rate Tables, will be added to the applicable mileage rate table located in the accessorial rate section.

**3.3. Basic Service - Alaska****3.3.1. Northbound/Southbound Service**

In addition to the Basic Service described at Section 3.1, the Carrier's basic service to Alaska shall also include delivering the loaded container/trailer to a place designated by the OO and spotting it at a specific point, such as a warehouse door or loading platform as designated locally by the receiving activity, and by the date and time of arrival specified by the OO (Required Delivery Date (RDD)). Return service of cargo in containers/trailers shall include pick-up of stuffed and/or empty containers at a specific point designated by the OO; moving the container/trailer to be loaded and subsequently transported aboard the Carrier's vessel to the Carrier's terminal in the Puget Sound area; and delivered there or to a point to be designated by the OO.

**3.3.1.1. Delivery****3.3.1.2. Performance Objective 12 – Cargo Delivery**

The Carrier shall contact the consignee to establish a delivery time. After the container/trailer has been discharged from the vessel, the Carrier shall make delivery of refrigerated cargo within one (1) working day to Anchorage and Kodiak Island and within two (2) working days to all other points. Dry cargo shall be delivered within five (5) working days, except that the Carrier shall be allowed an additional two (2) days to complete delivery of multiple consignee shipments. Unless otherwise directed by consignee, the Carrier shall deliver refrigerated and Keep-From-Freezing (KFF) cargo to military activities no later than two hours prior to the close of business on the day of delivery. Notwithstanding the above requirements, all cargo shall be scheduled and delivered in an expeditious manner.

**3.3.2. Southbound Service****3.3.2.1. Performance Objective 13 – Alaska to Puget Sound**

When the OO orders the containers/trailers delivered to Puget Sound, the Carrier shall make delivery of dry cargo containers/trailers within two (2) working days after the container/trailer has been discharged from the vessel.

**3.3.3. Overweight Carriage****3.3.3.1. Performance Objective 14 – Carriage of Overweight Containers**

The Contractor shall advise the OO when the combined cargo weight of the loaded container and chassis exceeds the allowed highway axle weight along any portion of the intended delivery route due to seasonal or local restrictions on carriage weight. The Carrier shall not refuse to carry a container Northbound to Alaska that weighs in excess of the local legal maximum weight allowed by U.S. Federal, state, or local governments if the container can be discharged from the vessel and the excess weight of cargo can be removed without violation of the applicable law, regulation, or ruling that established the maximum weight.

**3.3.4. Less Than Containerload/Trailerload Service**

When ordered by the OO, the Carrier shall receive and handle at its Puget Sound Terminal, Northbound general cargo and refrigerated cargo suitable for containerization and/or loading aboard a trailer.

**3.3.4.1. Performance Objective 15 – Less Than Containerload/Trailerload Cargo**

The Carrier shall receive, consolidate, segregate, tally and stuff cargo into containers/trailers; block and brace the cargo for safe ocean and intermodal movement; and, seal the containers/trailers as required. The Carrier shall maintain the integrity of the cargo units delivered to the Carrier for stuffing throughout the shipment, consistent with the stowage capability of the Carrier's containers/trailers. The Carrier shall not change the integrity of the cargo's configuration, i.e. break palletized loads, without prior approval of the OO. The Carrier may, unless otherwise directed by the OO or restricted by applicable regulations, commingle Government cargo with commercial cargo.

Unless otherwise directed by the OO, Northbound cargo delivered to the Carrier's terminal for consolidation will be stuffed and loaded aboard ship within ten calendar days of receipt by the Carrier, if bound for Anchorage, Kodiak Island, Eielson AFB, or Fairbanks. For all remaining destinations, cargo will be stuffed and loaded aboard ship

within fourteen (14) calendar days of receipt by the Carrier. The Carrier shall deliver cargo to consignees at specific points.

### **3.3.5. Modified Atmosphere Service**

Modified atmosphere service shall consist of furnishing a system that is designed to reduce spoilage to perishable container contents by introducing preservative gases or otherwise reducing the level of activity of oxygen in the container for the period from the time the container is closed, sealed, and charged with gas after stuffing until the seal is broken at the time of delivery of the container to the first consignee, or at such time as is mutually agreed upon at the time of booking.

#### **3.3.5.1. Performance Objective 16 – Provide Modified Atmosphere Containers/Trailers**

The Carrier shall provide modified atmosphere service. Charges are located in the Accessorial Rate Tables.

### **3.3.6. Privately Owned Vehicles (POVs)**

#### **3.3.6.1. Performance Objective 17 – POV Receive/Deliver**

Ocean Carriers shall receive or deliver POVs from/to the Government from Monday through Friday from 0800 until 1700 hours, except on locally observed holidays. The ocean Carrier and the GPC Contractor will perform a joint inspection of the POVs, using form DD788 or the Contractor equivalent form at receipt and delivery at the ocean Carrier's terminal. The custom of the trade is to deliver the vehicle in the same condition and cleanliness as it was received at both the ocean Carriers' Puget Sound and Anchorage terminals and to the VPC Contractor.

#### **3.3.6.2. POV Processing Service**

(POVs Moving Between Kodiak Island and Puget Sound) POVs moving from the ocean Carrier's Puget Sound terminal to Kodiak Island terminal shall be handled in the same manner as described in Paragraph 3.3.6.1. At Kodiak Island the ocean Carrier will issue POVs to service members or their agents at the ocean terminal. This terminal will process POVs according to the following Hours of Operation: Mondays 0800-1200; Tuesdays 0800-1200; Thursdays 1300-1700 hours, except on locally observed holidays. An inspection of the POV will be accomplished with the service member or their representative upon receipt of the POV. POVs will be returned in the same condition of cleanliness as received, to include washing if required, to facilitate efficient joint vehicle inspection.

#### **3.3.6.3. POV Storage and Detention**

The Carrier will provide storage for POVs in a secure (generally closed to the public), lighted, fenced, hardstand area pending pick up by the member for up to twenty-one (21) days. Detention charges, as set forth in paragraph 3.21, will be assessed if storage is required beyond twenty-one (21) days. POVs moving from the Carrier's Kodiak Island terminal will be received from service members or their agent at the terminal during the same hours as above and be inspected as above. The ocean Carrier will then load, transport, unload at their Puget Sound terminal, inspect and issue POVs to the VPC drayage Carrier as described in Paragraph 3.3.6.1. Charges are located in the Accessorial Rate Tables.

**3.3.7. Railhead Handling/Drayage Service for Military Vehicles**

The Carrier shall discharge military from railcars in the Puget Sound Area and transport the vehicles to its Puget Sound ocean terminal. Carriers will be compensated for this service at the rates set forth in the Accessorial Rate Tables.

**3.3.8. Surcharge for Carriage of Poles**

When ordered by the OO, the Carrier will transport both treated and non-treated poles that are greater than thirty-nine feet in length. The Carrier will be compensated for this service at the per foot rate set forth in the Accessorial Rate Tables, applied to the total length for each bundle of poles shipped.

**3.3.9. Supercargo Transportation Service**

When ordered by the OO, the Carrier's supercargo transportation service shall consist of transporting, victualling and suitably accommodating in the Carrier's vessel, one or more persons designated by the Government to accompany cargo carried in the vessel. Carriers will be compensated at the rates set forth in the Accessorial Rate Tables.

**3.3.10. Keep-From-Freezing Service**

When ordered by the OO, Keep-From-Freezing (KFF) Service shall consist of furnishing equipment to the specified stuffing activity that will insure protection of cargo from freezing. It is the responsibility of the Carrier to maintain its KFF equipment in proper working order from the initial stuffing until unstuffing at final destination. For the ocean portion of the movement, KFF Service will be charged at the applicable general cargo rate plus the KFF Service rate set forth in the Accessorial Rate Tables. For the linehaul portion of the movement, the KFF Service Differential, set forth in the Accessorial Rate Tables, will be added to the applicable Mileage Rate Table located in the accessorial rate section. Keep-From-Freezing Service window of operation is from 1 October through 30 April.

**3.3.11. Breakbulk Service-Alaska****3.3.11.1. Northbound Service to Alaska**

The Carrier's northbound breakbulk service shall consist of loading and transporting breakbulk cargo in its vessel and discharging the cargo at its receiving terminal and transporting to inland delivery points in Alaska, as set forth in the schedule (pier-to-door). Breakbulk service shall be provided in accordance with the terms and conditions for Containerizable service, as applicable.

**3.3.11.2. Southbound Service from Alaska**

The Carrier's southbound breakbulk service shall, depending on the schedule of service, consist of either, loading and transporting breakbulk cargo from inland shipping points in Alaska through to its receiving terminal in Puget Sound (door to pier) or loading and transporting cargo in its vessel and discharging the cargo at its receiving terminal in the Puget Sound area (pier-to-pier). Breakbulk service shall be provided in accordance with the terms and conditions for Containerizable service, as applicable.

**3.3.11.3. Alaska Tie-Down Services**

Charges listed in the rate tables include requiring the Carrier to perform tie-down service for flatbeds, flatracks, and lowboys loaded by the Government. Rates also include all materials necessary to perform tie-down service.

### **3.4. Basic Service – Puerto Rico/U.S. Virgin Islands**

#### **3.4.1. CONUS to Puerto Rico (Outbound) Basic Service**

In addition to the Basic Service described in Section 3.1, the Carrier's basic Continental United States (CONUS) service to San Juan, Puerto Rico shall also include clearing cargo through all applicable agencies of the local government and making Available for Onward Movement (AOM), (See Definitions), to include: containers on chassis or trailers, and then to release containers/trailers to a motor Carrier designated by the OO or its authorized representative at the port of San Juan. Once the ocean carrier has notified the OO that the container is AOM, the Government will notify the Carrier of the specific date and time the designated Motor Carrier will pick-up the container. If the motor carrier is delayed at the terminal due to fault of the ocean carrier, beyond one hour waiting time for delivery or pickup of a container or designated cargo, then the ocean carrier will be liable for charges of \$35.00 per hour for each hour of delay. The start time will be calculated based on the time the trucker checks in the terminal with the proper documentation from the OO.

#### **3.4.2. Puerto Rico to CONUS (Inbound)**

The Carrier will receive and handle stuffed containers/trailers at their San Juan terminal from a motor Carrier designated by the OO or agent; load and transport containers/trailers in the Carrier's vessel; deliver to their CONUS terminal; discharge and handle the containers/trailers at the receiving terminal; and delivered there or to a point to be designated by the OO.

#### **3.4.3. CONUS to U.S. Virgin Islands (St. Thomas/St. Croix)**

For cargo to USVI, the Carrier will provide the same services as in paragraph 3.4.1 to the Carrier's terminal at St. Thomas/St. Croix; discharge and handle containers at the receiving terminal, and contact the consignee to establish a delivery time. The Carrier will deliver all cargo containers/trailers within one working day after the container/trailer has been discharged from the vessel. Cargo will be delivered as follows: M-Term Service Delivery – St. Thomas/St. Croix. Cargo booked under M-Term Service to St. Thomas/St. Croix shall be delivered to designated points.

#### **3.4.4. Inter-Island Service**

The Carrier shall transport breakbulk or containerizable cargo **between San Juan and USVI** and **between St. Thomas and St. Croix** in accordance with the specifications for carriage referenced in Paragraph 3.4.1.

#### **3.4.5. Interchange Agreement**

The Carrier shall maintain standardized equipment interchange agreements containing the same terms and conditions as offered to its most preferred commercial customers with the motor Carriers designated by the OO. If the terms and conditions of this contract are different than those contained in the Carrier's standardized equipment interchange agreement, the terms and conditions of this contract will apply.

#### **3.4.6. Accessorial Services**

##### **3.4.6.1. Controlled Atmosphere Service**

The Carrier's controlled atmosphere service consists of furnishing a self-contained computerized system capable of monitoring and adjusting the atmosphere in a

refrigerated container after the Carrier has introduced preservative gases in the container. The system is designed to reduce spoilage and extend shelf life of perishable commodities similar to modified service, but differs by its ability to adjust the air inside the container during transit. Charges are located in the Accessorial Rate Tables.

**3.4.7. Break-Bulk Service--From/To/ Between CONUS/Puerto Rico/Virgin Islands**

The Carrier's breakbulk service shall consist of receiving cargo at Carrier's commercial terminal; loading; transporting breakbulk cargo in its vessel, and discharging the cargo at its receiving terminal. Breakbulk service shall be provided in accordance with the terms and conditions for Containerizable service, as applicable.

**3.4.7.1. Containerization for the Convenience of the Carrier**

For breakbulk cargo booked by the Government on a liner term basis, the Contractor may, at its discretion, containerize such cargo for its own operational convenience without any additional cost or expense to the Government. However, this containerizable cargo is still considered breakbulk cargo for the purposes of computing the cargo guarantees for this contract.

**3.5. Electronic Commerce/Electronic Data Interchange (EDI)**

**3.5.1. Performance Objective 18 – Use of EDI**

The Contractor shall use Electronic Data Interchange (EDI), as the primary means for interfacing with the Military Traffic Management Command (MTMC). For those Contractors who are not EDI capable, Ocean Carrier Interface (OCI) is acceptable as a secondary means of data submission. In those Government locations where neither EDI nor OCI are available (Integrated Booking System (IBS) is not supported), the Contractor must use hard-copy facsimiles.

**3.5.2. Trading Partner Agreement (TPA)**

Carriers electing to participate in the MTMC EDI are required to execute a Trading Partner Agreement (TPA) with MTMC. This is an umbrella document that describes the use of electronic media and electronic signatures; and establishes EDI transactions as legally enforceable in lieu of signed paper documents. The Carrier will be required to either demonstrate that they have a TPA in place, or to submit the TPA as part of their offer. The TPA will be approved upon successful completion of transmission tests for each transaction set.

**3.5.3. Transaction Sets and Concepts of Operation**

**3.5.3.1. Performance Objective 19 – DTEDI EDI**

The Contractor must use the Defense Transportation Electronic Data Interchange (DTEDI) approved Implementation Convention for the ANSI X-12 300, 301, 303, and 315 Transaction Sets in compliance with their approved concepts of operations. Versions 3060, 4010 or later are required. The Contractor will implement changes to business processes contained in revisions to Transaction Set Implementation Conventions and their controlling concepts of operations as may be approved by the Ocean ACI Committee. These changes must be implemented in accordance with schedules approved by the Ocean ACI Committee.



### **3.6. Shipment Booking**

Cargo will be offered to awardees to ensure compliance with awarded cargo minimums by route. On all routes with award to multiple Carriers, all cargo will be booked to Contractors at the discretion of OO based on a tradeoff analysis of service, past performance and price, subject to VISA priorities. Awarded contract minimums for the base period or the option period must be satisfied by the expiration date of the base or option period.

#### **3.6.1. Automated Booking**

Contractors must implement an automated booking capability via Electronic Data Interchange (EDI) or Ocean Carrier Interface (OCI) with the Integrated Booking System (IBS) within thirty (30) days after award of contract. Automated booking capability must be maintained twenty-four (24) hours per day, three hundred sixty-five (365) days a year, throughout the period of the contract.

##### **3.6.1.1. EDI Transaction Set Compliance**

EDI transaction sets shall comply with approved Military Traffic Management Command (MTMC) standards as described in this contract (Ref Para. 3.5). Contractor must respond to all cargo offerings, including changes to previous offerings, within two (2) hours of the time the cargo offering is released by IBS. Contractors have one business day to counteroffer any automatically processed booking. Contractors must accept bookings via a Carrier provided web site; for shippers that prefer to use Direct Booking procedures (see attachment Direct Booking Requirements (DBR)).

##### **3.6.1.2. Possible Replacement of IBS and/or OCI**

During the term of the contract, the Government may implement a successor system that will replace IBS and OCI. Contractors will be required to interface with this new system and will be provided at least one hundred twenty (120) days notice prior to implementation of the new system.

**Note:** In those Government locations where neither EDI nor OCI are available (IBS is not supported), the Contractor must use hard-copy facsimiles.

#### **3.6.2. Changeover at Booking Offices not initially Supported by IBS**

##### **3.6.2.1. Performance Objective 20 – Using EDI for Sites with New Capabilities**

The Contractor must commence the use of EDI or OCI (or successor system) with booking offices not supported by IBS at the effective date of this contract, subject to the Government providing at least one hundred eighty (180) days advance notice of requirement to begin exchanging electronic information at such sites.

#### **3.6.3. Booking Transaction Sets**

##### **3.6.3.1. Performance Objective 21 – Use of EDI for Booking**

Where EDI is used, the Contractor must accurately receive or transmit, as appropriate, the following Transaction Sets:

- Contractor receiving order data, 300 (Delivery order, the booking, including increases and decreases)
- Cancellation data from OO/COR, 303 (OO/COR cancellation)
- Contractor ordering confirmation data, 301 (Confirmation of order, Contractor to OO/COR)

### **3.6.4. Order Acceptance**

#### **3.6.4.1. Performance Objective 22 – Accepting Orders**

The Contractor must accept orders to book shipments, up to its space commitment, if the Government orders are received no less than three (3) working days prior to a local cutoff for a scheduled sailing. Exception: Empty Government owned or leased containers will be booked on a space available basis. Empty containers will be offered to the Carrier who will propose space for them on the first sailing for which space is available.

<b>Performance Measures</b>	<b>Performance Standards</b>
Provide response within 2 hours	98%

### **3.6.5. Response to Orders**

#### **3.6.5.1. Performance Objective 23 – Carrier Response to Orders**

The Contractor must respond to all Government orders on the same working day they are received, if the Contractor receives the order prior to 1430 local time. Contractor responses for orders received after 1430 local time must be provided by 1200 local time of the next working day. Response will include either: acceptance of the booking as offered; counteroffer from the Carrier with proposed acceptable terms; or rejection of the booking. Reference also Paragraph 2.9, Limitations of Contractor's Responsibility.

#### **3.6.6. Performance Objective 24 – Space Commitments**

Contractors must reserve five (5) percent of vessel capacity for the booking of Government cargo on each vessel sailing from CONUS. In the event the Contractor fails to accept bookings for cargo up to its minimum guarantee for any sailings, the Contractor must pay the Government two hundred fifty (250) dollars for each FEU shortfall or seven (7) dollars per MT shortfall.

### **3.7. Transportation Requirements**

#### **3.7.1. Performance Objective 25 – Required Delivery Date**

Delivery is required by the RDD specified in the accepted booking.

<b>Performance Measure</b>	<b>Performance Standard</b>
RDD met	98%, but in no case more than 4 working days late

If, for reasons other than force majeure, the Contractor fails to deliver the cargo by the Required Delivery Date (RDD) specified in the accepted booking, the Contractor must, in lieu of actual damages, pay the Government a lump sum of two hundred fifty (250) dollars for each container and for each Breakbulk/RORO, seven (7) dollars per MT, subject to a minimum of one hundred (100) dollars, per shipment Transportation Control Number (TCN) delivered after the RDD.

##### **3.7.1.1. RDD for POV Transport**

The booking of POV's with the Contractor is premised on the ability of the Contractor to achieve the RDD associated with each individual POV. The ability of the Contractor to achieve the POV RDD is determined by reference to the Ocean Transit, Inland Delivery

and other time periods provided herein concerning the overall movement of cargo from the time it is tendered to the Contractor by the government at origin until it is delivered at the designated destination in the booking/shipping order. In accepting a POV booking/shipping order, the Contractor warrants that it can achieve delivery of the POV by the designated RDD under the terms and conditions of this contract.

#### **3.7.1.2. Failure to Meet POV RDD**

If the Contractor fails to deliver a POV on or before the RDD, the CO shall assess thirty (30) dollars damages per diem against the Contractor. Damages shall be assessed for each day that the delivery exceeds the RDD, including the day of delivery, up to a maximum period of seven (7) calendar days, with a maximum Contractor liability of two hundred ten (210) dollars per POV. The Contractor may be exonerated from this liability only under circumstances constituting Force Majeure or an Excusable Delay (FAR 52.212-4(f)).

#### **3.7.1.3. POV Delivery after Force Majeure or Excusable Delay**

The Contractor is at all times required to deliver the POV as soon as possible following the conclusion of any Force Majeure or Excusable Delay circumstance. If the failure to achieve delivery by the RDD is partially excused, damages shall be assessed on a pro rata basis. The Contractor bears the burden of establishing exoneration on the basis of any Force Majeure or Excusable Delay circumstance.

### **3.8. Schedules**

#### **3.8.1. Performance Objective 26 – Maintenance of Schedules**

The Contractor must maintain continuous commercial vessel schedules within IBS, with the initial input of any voyage being at least forty-five (45) days prior to the earliest sail date of that voyage. The Contractor must provide hardcopy schedules to the booking office, where IBS is not implemented, beginning at least forty-five (45) days prior to the earliest sail date of that voyage.

#### **3.8.2. Performance Objective 27 - Frequency of Service**

The Contractor must maintain a regularly scheduled and consistent commercial liner service conforming to the service offered in the Contractor's schedules maintained in IBS.

<b>Performance Measures</b>	<b>Performance Standards</b>
Late Departures	No more than 5% of scheduled sailings that are 1 day or more late per year
Cancelled Departures	No more than 1% of scheduled sailings cancelled per year

#### **3.8.3. Cost Liabilities**

If the Government stuffs a container with cargo weighing in excess of the container's standard maximum weight carrying capacity or in excess of any lesser weight of which it has been given notice under Paragraph 3.1.2, it shall remove, or pay the expenses of the Carrier in removing or handling the excess weight of cargo. All consequences or liabilities that may result from excessive weight of containers stuffed by the Carrier, shall

be the responsibility of the Carrier. All fees or other costs incident to weighing container(s) shall be the responsibility of the Carrier.

### **3.9. Storage Charges**

When the Carrier fails to pick-up a container from the Government facility within the time period in Paragraph 3.1.1.7, the Carrier shall be liable for payment of storage charges computed at the detention rates for each twenty-four (24) hour period, or pro-rata for part thereof, from expiration of the time described in Paragraph 3.1.1.7.

### **3.10. Cargo Lift and Advancement of Cargo**

#### **3.10.1. Performance Objective 28 – Lift to Meet Booking**

The Contractor must lift cargo onto the vessel identified in the booking. The Contractor is encouraged to advance containers to an earlier vessel to the maximum extent possible without bumping cargo already booked to the vessel and only after no-shows and roll-overs from previous voyages are lifted on the vessel. No prior approval is required from the Government. Within one (1) working day after vessel departure from each POE, the Contractor must provide to the cognizant Contracting Officer Representative (COR) a list of cargo by TCN that were booked, but not loaded, and/or loaded, but not booked, and the reasons why cargo was not lifted as booked.

#### **3.10.2. Government Failure to Release Containers**

The Government will provide Contractor at least one (1) working day prior to local vessel cutoff of any cargo that will not be available for the booked sailing. A new vessel will be designated based on the projected availability of cargo. This is considered a “roll over” and no-show charges in accordance with paragraph 3.13.1.2 are not applicable. However, should the “roll over” not show for the designated vessel and the booking is not cancelled in accordance with Paragraph 3.13.1.1, the Contractor may charge the Government in accordance with Paragraph 3.13.1.2 for a no-show.

##### **3.10.2.1. Government Liability for Failure to Release Containers**

The Contractor must in no event hold the Government liable for vessel demurrage or dead freight by failing to release a container on time to meet a specified vessel sailing.

##### **3.10.2.2. Performance Objective 29 – Accommodation for Failure to Release.**

For containers that miss their booked sailing through no fault of the Carrier, the Contractor must load containers on the next scheduled sailing after receipt of containers from the Government.

##### **3.10.3. No Fault Failure To Meet Sailing**

If a container stuffed with cargo misses the sailing for which it is scheduled due to no fault of the Government or the Carrier, the Government shall have the remedies set forth below.

###### **3.10.3.1. Load on the Next Vessel**

The Government may order the Carrier to load the container on the next vessel scheduled to the same port of debarkation. The Government shall pay only for freight and usual charges.

**3.10.3.2. Move to Another Shipping Place**

The Government may order the Carrier to move the container to another place, including another Carrier's terminal. The Government shall bear all costs for such movement, and shall return the container to the Carrier at the port of debarkation.

**3.10.3.3. Return the Cargo**

If the Government elects to order the return of the cargo, the Carrier shall move the container to a place designated by the OO for unstuffing. The Government shall bear all costs of such movement.

**3.11. Government Furnished (Government-Owned/Leased) Containers****3.11.1. Performance Objective 30 – Support of Government-Owned/Leased Containers**

The Contractor must provide ocean and intermodal services, including a chassis, for Government-provided containers/equipment. The Contractor must return Government-owned/leased containers in the same condition as received.

**3.11.2. Performance Objective 31 – Detention of Government Furnished Containers**

The carrier shall be liable for loss of or damage to Government containers/trailers and chassis while in the Carrier's custody to the same extent that the Government is liable for loss of or damage to the Carrier's equipment while in the Government's custody. The Government is not obligated to pay detention charges for Government containers/trailers or chassis. The Carrier must not procure war risk insurance coverage on the Government containers and will not be liable for any loss thereof under circumstances covered by the Carrier's war risk insurance on its containers.

**3.12. Transloading Of Containerized Cargo**

The Carrier shall not transload cargo from one container to another without the authorization of the OO, except when such transload is required to safeguard the cargo during the continuation of the movement. When cargo is transloaded from the original container, the Carrier shall immediately so notify the MTMC activities having cognizance over the loading and discharge ports. Such notice shall contain the serial number and seal number of the original container, and of the container to which cargo was transloaded, the place where the transload occurred and the reason for the transload.

When the container to which the cargo was transloaded differs in internal cubic capacity from the original container, freight shall be based upon the cubic capacity of the original container. This section applies to Government stuffed full container loads. It does not apply to Carrier stuffed less than container loads.

**3.13. Changes****3.13.1. Canceled Shipments/No Shows****3.13.1.1. Performance Objective 32 – Cancellations of Shipments**

The Contractor must accept cancellation of shipments of booked cargo, without penalty to the Government, if cancellation notice is provided by the Government at least one (1) working day prior to the local cutoff for the vessel.

**3.13.1.2. No Shows**

If the OO/COR fails to cancel a booking or cargo is not available for lift on board the scheduled vessel through no fault of the Contractor, the cargo must be designated as a “no show”. For container cargo, the Government will pay a sum of two hundred fifty (250) dollars for each container no show. For BB/RORO cargo, the Government will pay a sum of seven (7) dollars per MT, subject to a minimum of one hundred (100) dollars, for each no show. Any advances made by the Contractor must reduce the Government’s liability for the number of “no shows” for the vessel voyage.

**3.13.2. Change of Destination**

The OO may elect, in writing, to change the final destination at any time before the container has commenced final inland movement from the place of discharge. The shipment will be re-priced based on the modified booking.

**3.13.2.1. Performance Objective 33 – Movement to Changed Destination**

*The Contractor must move the container to the new inland destination at the request of the Government at any time before the container has commenced final inland movement from the place of discharge.*

**3.13.3. Short Stop**

The OO may elect, in writing, to take delivery at the Contractor’s port instead of at the original inland destination. Free time provisions will apply at the elected port of the short stop. The shipment will be re-priced based on the modified booking.

**3.13.3.1. Performance Objective 34 – Contractor Response to Short Stop**

The Contractor must short stop containers at port of discharge when OO elects to take delivery there instead of inland destination.

**3.13.4. Permanent Service Changes**

If the Contractor notifies the CO of a permanent change in service and if the change meets the requirements for initial award of that service, initial contract rates must apply to the changed service. If the changed service no longer meets the initial award of that service, the PCO has the right to adjust the award minimums.

**3.13.4.1. Performance Objective 35 – Notification of Change of Service**

The Contractor must notify the CO at least thirty (30) days prior to implementation of permanent changes in the Contractor’s commercial service. All bookings accepted prior to notification of permanent service change must be performed in accordance with the booking and all terms contained herein.

**3.13.5. Temporary Scheduled Service Change****3.13.5.1. Performance Objective 36 – Temporary Change of Service**

The Contractor shall notify the CO in writing of planned changes in service due to scheduled dry-dockings, or other similar reasons, at least four (4) months prior to the date of service impact. The Contractor shall submit with the notification, a plan to show how the service impact will be managed or minimized. The Carrier shall notify the CO or COR promptly in writing upon determination of an emergency dry-dock requirement.

**3.14. Cutoffs**

The Contractor must provide local cutoffs for origins within CONUS and keep MTMC OPSCTR Fort Eustis, Virginia apprised of changes. The default local cutoff is close of business one (1) working day before the vessel cutoff at the port, with an additional day for each three hundred (300) miles from the port to the inland origin point, rounded to the nearest whole day.

**3.15. Space Available Cargo**

The Government may book cargo over and above the guaranteed space requirements provided under this contract. The Carrier shall accept such bookings on a space available basis, and shall guarantee space and an assured ocean transit of service for such cargo on the specified vessel sailing to which the cargo is booked.

**3.16. Linehaul for Containerizable Ammunition Shipments**

The Contractor will use a Carrier that has been approved by DoD for movement of ammunition. A list of DoD approved Carriers can be obtained from Maureen Carlo, MTMC Operations Center, Fort Eustis, Virginia at 757-878-8408. Dual driver service is required. Carrier will provide satellite monitoring that feeds into the Defense Transportation Tracking System (DTTS), Ref. Chapter 205 of the Defense Transportation Regulation.

**3.17. Identification of High Value and/or Classified Items**

Government Shippers will advise Carriers of cargo that is high valued or may contain high valued contents such as military vehicles, to enable Carriers to take necessary precautionary measures. Likewise, Shippers must inform Carriers of any cargo that is classified and request the proper protective in-transit security services in accordance with the Defense Transportation Regulation, Ref. Chapter 205 of the Defense Transportation Regulation.

**3.18. Tracking, Tracing and Reports****3.18.1. Performance Objective 37 – Submission of Tracing and Tracking data**

The Contractor shall provide tracing and tracking information to the DoD, where the Contractor is responsible for providing the underlying service. Tracing is the review of the Contractor's records for the purpose of locating a missing container or shipment.

**3.18.2. Tracking Data – Submission of Event Reports****3.18.2.1. Performance Objective 38 – Event Reports**

For the transportation and intermodal services provided by Contractors to meet booking requirements, Contractors shall provide accurate shipment status reports using the 315 Transaction Sets in ANSI X-12, EDI standard, or OCI to MTMC, to enable Government to track shipments and support the MRM15 initiatives. The Contractor shall submit the following event reports within twelve (12) hours of event completion. The Contractor is not required to report events that are outside the scope of the booking.

**315 Transaction Sets Events**

Code	Definition	Notes
EE	Empty spotted	Optional. Empty container outage in lieu of actual spot is acceptable for Shippers having container pools
W	Pick-up of loaded container	Required only if Contractor provides inland dray/linehaul
I	In-gate at Port of Embarkation (POE)	
VD	Vessel sails	Required at POE
VA	Vessel arrival	Report actual vessel arrival
UV	Vessel discharge	Required at Port of Debarkation (POD)
OA	Out-gate from POD	
X1	Deliver to Consignee	
EC	Empty container pick-up	Optional

### 3.18.3. Submission of Operational Reports

Until MTMC fully integrates EDI into its business processes, the Contractor must provide the cognizant MTMC activity and the military activity responsible for cargo documentation at each port where Government cargo is lifted and/or discharged with certain information in connection with cargo at that port. The Contractor must submit as much of the data that is available within the timeframe for submission. Submission of reports via e-mail is preferred.

#### 3.18.3.1. Cargo Receipt Information Report

Provide to MTMC and military port cargo documentation activity NLT next working day after container pickup

#### Cargo Receipt Information Report - Ports of Loading

- Name of ocean Contractor
- Port of loading
- Date cargo received at port
- Transportation Control Number (TCN)
- Seal and/or keyless lock number

#### 3.18.3.2. Cargo Lift Information Report

Provide to MTMC and military port cargo documentation activity NLT next working day after vessel departure from port

#### Cargo Lift Information Report - Ports of Loading

- Name of vessel and voyage document number
- Transportation Control Number (TCN)
- Port of discharge
- Final destination
- General description of cargo contents; i.e., General cargo, privately-owned vehicles (POVs), other unboxed wheeled or tracked vehicles, refrigerated cargo



- Seal and/or keyless lock number.

**NOTE:** The Contractor must notify the OO/COR if a seal on any unit of cargo has been broken and/or replaced between the time the Contractor accepted the cargo from the Government and the time of arrival at the inland destination or point of Government acceptance from the Contractor with a complete report of the circumstances and the reasons therefore.

#### **3.18.3.3. Cargo Discharge Information Report**

Provide to MTMC, as soon as practicable after discharge, but no later than one (1) day following commencement of delivery or next working day after vessel discharge from port, whichever occurs first. The Cargo Discharge Information Report must include the details (listed below) for each shipment/TCN.

#### **Cargo Discharge Information Report**

- Name and voyage number of vessel making delivery
- Name and voyage number of original vessel if transshipped
- Date and time the cargo was discharged from the vessel
- Date and time, cargo is available for commencement of drayage or linehaul from discharge port
- Date, time, and mode of commencement of drayage or linehaul from discharge port

#### **3.18.4. DoD Intransit Visibility Requirements**

##### **3.18.4.1. Position Reports**

When specifically requested by the COR, the Carrier shall furnish Military Traffic Management Command with the daily noon position of any or all of the Carrier's ships operating in the routes covered by this contract.

#### **3.19. Government Liability for Improper Documentation.**

If the Government does not provide the Carrier with the correct container documentation at the time and location of Carrier acceptance, the Carrier may refuse to pickup or accept the container. If the Carrier refuses to accept a container because the Government has not provided proper documentation, the Government shall reimburse the Carrier for actual costs incurred if the Carrier has made a futile trip in connection with such circumstance. If the Carrier chooses to pick-up or accept the container, the Carrier shall provide the cognizant MTMC manifesting activity with all the missing receipt or lift data in order that the container can be completely identified for onward movement. This information must be provided within one (1) working day of receipt or lift, or earlier if necessary to meet the scheduled vessel sailing.

#### **3.20. Free Time**

Free time is that period allowed for use of Carrier equipment without additional charge. Detention is the charge assessed against the Government for delaying the release of Carrier equipment beyond allowed free time.

**3.20.1. Free Time Allowed**

For Alaska, the total amount of free time will be three (3) working days. Puerto Rico and the Virgin Islands the total amount of free time will be ten (10) working days for dry cargo, and five (5) working days for refrigerated cargo.

**3.20.2. Commencement of Free Time**

In Alaska, CONUS and USVI (M-Term Service), free time will commence at 0001 hours on the first working day the container is available for delivery and/or unstuffing. In Puerto Rico time shall begin at 0800 hours local time after the container has been discharged from the vessel, cleared for linehaul/drayage by all applicable agencies of the local government, (including local tax office, customs, the U.S. Department of Agriculture, and the Puerto Rico Department of Agriculture), and the OO has been notified that the container is ready for linehaul/drayage. This notice is not required if previous instructions relative to commencement of linehaul or drayage have been received by the OO.

**3.20.3. No Running of Time**

Time shall not run when clearance by local government agencies is delayed because the Government is unable to provide documentation due to error or omission on the part of the Carrier to provide receipt, lift, or transshipment information. Time and detention shall not run during the period containers are held at the Carrier's terminal due to local labor disturbances. Time shall cease to run at 2400 hours on the day the Carrier is notified that the container is ready to be released or when the container is returned to the Carrier, whichever is earlier.

**3.20.4. Delivery at Carrier's Terminal**

For outbound CONUS cargo, when the OO elects to take delivery of containers at the Carrier's terminal at the port of discharge, time shall cease to run when the container with trailer is hooked to the Government tractor.

**3.21. Detention****3.21.1. Detention after Free Time expires**

When freetime is exceeded, Contractors will be paid at detention rates and for refrigerated maintenance as stated below.

**3.21.1.1. Detention Charges**

When return of containers or chassis to the Carrier are delayed by the Government beyond the allowable free time and if chassis is (are) being used solely for the carriage of Government owned or leased containers, the Carrier shall assess detention charges as specified below:

**Container Detention Charges**  
**For Each 24-Hour Period or Part Thereof, With or Without Chassis**

<b>Equipment Type</b>	<b>Size</b>	<b>First Three Days</b>	<b>Thereafter</b>
Dry Cargo Container	20 feet and over	\$15.00	\$22.00

(Includes closed containers, open top containers, flatracks and car carriers)	40 feet and over	\$21.00	\$35.00
Refrigerated Container	20 feet and over	\$46.00	\$63.00
	40 feet and over	\$63.00	\$85.00
Chassis (Only applies for use with Government owned or leased containers)		\$5.00	\$5.00

### 3.21.1.2. Vehicle Detention Charges

The applicable charges shall be calculated at a per unit per day rate of \$15.00.

### 3.21.1.3. Reefer Maintenance Charges

When the return of refrigerated containers to the Carrier is delayed by the Government beyond the allowable free time, the Carrier may assess a refrigerated maintenance charge in addition to those charges for container detention. This refrigerated maintenance charge shall be added to the per diem detention charge when, due to Government delay, the Carrier incurs additional expenses in maintaining operation of those refrigerated containers so delayed. The Carrier will certify such charges to the CO. The application of such additional charges contained in Columns A and B below is as follows:

**Column A** - per diem or part thereof charge when refrigerated containers are delayed at those facilities where electrical power is available for direct connection to the Carrier's container.

**Column B** - per diem or part thereof charge when refrigerated containers are delayed at those facilities where the Carrier is required to maintain operation of refrigerated containers without the use of electrical power. When a Carrier bills in accordance with Column B, it must certify that electrical power was unavailable at that facility.

### Refrigerated Maintenance Rates For Each 24-Hour Period or Part Thereof

Container Size	Column A	Column B
20 feet and over	\$7.76	\$29.00
40 feet and over	\$11.21	\$43.70

### 3.21.2. Detention Invoices.

Detention invoices must be submitted to the COR for certification no later than six (6) months from the date the empty container is returned to the Carrier. Detention invoices received after that time will not be certified for payment and the Carrier waives any right to payment thereafter. A receipt acknowledging the Carrier's detention invoice submission to the Government representative for processing shall be receipted and a log record maintained by the COR. Detention invoices received after that time and those for which the Carrier may not validate submission by receipt records will not be certified for payment and the Carrier waives any right to payment thereafter.

### **3.22. Government Use Of Carrier Equipment (Leasing)**

#### **3.22.1. General**

Upon twenty-four (24) hour advance notice by the OO, the Carrier shall furnish containers, trailers, flatcars, and chassis, and in the case of non self-sustaining refrigerated containers, also a generator set, for use in connection with land and ocean transportation of Government cargo arranged under this agreement. The Carrier shall be paid at the equipment leasing rates set forth in the table below for equipment leased under this provision. Equipment so leased may be transported aboard any vessel designated by the Government and may be transported inland by any means available to the Government. Unless otherwise agreed, Carrier equipment leased by the Government shall be returned by the Government to the place where such equipment was originally received from the Carrier.

#### **3.22.1.1. Shipping Order as Leasing Document**

A Shipping Order shall be issued to reflect each lease of equipment. The Shipping Order shall set forth the number, size, and appropriate identification information of such Carrier equipment, the estimated duration of lease, and place of return. The Carrier shall be paid for each twenty-four (24) hour period or part thereof, Saturdays, Sundays, and holidays included, for the period between the time the equipment is received or ordered from the Carrier, whichever is later, until the time the equipment is returned to the Carrier. The Government shall not lease equipment for storage or other purposes unrelated to the furnishing of transportation pursuant to this contract, unless otherwise mutually agreed between the Government and the Carrier.

#### **3.22.2. Leasing Rates**

#### **Leasing Rates**

<b>Equipment Type</b>	<b>Size</b>	<b>Per Day Rate</b>
Dry Cargo	20 feet and over	\$10.00
	40 feet and over	\$12.00
Refrigerated	20 feet and over	\$30.00
	40 feet and over	\$35.00
Chassis	20 feet and over	\$10.00
	40 feet and over	\$12.00
Flatrack/Flatcar/Flatbed Truck	20 feet and over	\$10.00
	40 feet and over	\$12.00
Trailer	40 feet and over	\$24.00
Refrigerated Trailer	40 feet and over	\$47.00

### **3.23. Application of COGSA**

#### **3.23.1. Incorporation**

The United States Carriage of Goods by Sea Act (COGSA) 46 U.S.C. 1300 et seq. is incorporated into this contract and shall apply to the ocean transportation of all goods (including goods in containers stowed on deck, which shall be considered as goods stowed under deck) under any Shipping Order with the same force and effect as if the Act

applied to such carriage by express provision therein; provided, however, in case of loss, damage or shrinkage in transit, the rules and conditions governing commercial shipments shall not apply as to the period within which notice thereof shall be given the Carrier or as to the period within which claim therefore shall be made or suit instituted. However, to improve the chances for successful claims resolution, the Government will both notify the Carrier, preferably within ten (10) working days, and file claims as early as practicable after the detection of loss, damage, shrinkage, etc of cargo.

### **3.23.2. Limits of Liability**

For the purpose of interpreting Section 4 of COGSA "Limitation of Liability," neither a barge, container, nor, railcar will be construed as a package or customary freight unit. For liability purposes, unless the Government declares a higher valuation per the Changes Clause of the contract, all cargo other than bulk liquids will be valued at five hundred (500) dollars per measurement ton, whether Containerizable or breakbulk. Bulk liquids moving in bulkcontainers or railcars i.e. Petroleum, oil, lubricants, deicing fluid, etc, will be valued at the existing price per gallon at the time of cargo loss, damage, or contamination. In cases where cargo is valued on a shipping order over five hundred (500) dollars per measurement ton, the Carrier will be entitled to an equitable adjustment in their rate to compensate for the increased risk of shipment.

The carriage of cargo under any Shipping Order issued pursuant to this contract shall not be deemed or construed to be the carriage of cargo pursuant to special terms and conditions as provided for in Section 6 of COGSA; and nothing in this contract is intended to relieve the Carrier or the vessel from liability for loss or damage to or in connection with the goods arising from negligence, fault or failure in the duties and obligations provided by COGSA or to lessen such liability otherwise than as provided therein. The Carrier shall be liable as a common carrier by land for any loss of or damage to cargo while being transported under this contract between any inland origin and the vessel's side and between the vessel's side and any inland destination.

### **3.23.3. Barge Service**

If the Carrier provides common Carrier service via a barge system, the following additional provisions apply.

#### **3.23.3.1. Application of COGSA.**

##### **3.23.3.1.1. Period of Liability.**

The Carrier will be liable for cargo claims in accordance with the Carriage of Goods by Sea Act, 46 USC 1300 et seq. from the time the cargo is loaded on a barge to the time the cargo is discharged from the barge.

##### **3.23.3.1.2. Limitation of Shipowner's Liability**

On any voyage, the Carrier will not invoke limitation of shipowner's liability under 46 USC 183 for aggregate losses or damages to cargo in barges to a value less than the limitation value of the tug(s) and barges at time completion of the voyage.

#### **3.23.3.2. Barge Not a Package**

A barge will not be deemed to be a package within the meaning of the five hundred (500) dollar package limitation in Section 1304 of Title 46 of the United States Code (See also Paragraph 3.23.2).

**3.23.3.3. Government Liability**

The Government will not be liable for any damage sustained by a barge or tug while alongside a loading or discharging facility, except to the extent that it would be liable for such damage to an oceangoing vessel alongside such facility under the law and other terms of this contract.

**3.23.3.4. Containerized Cargo**

All containerized cargo in or on barges will be considered to be stowed underdeck.

**3.23.3.5. Mooring Lights**

All barges will be equipped with sufficient battery -operated mooring lights, when required.

**3.24. Agreed Cost Responsibility****3.24.1. General**

As a means of facilitating the administration of this contract, the parties have agreed that certain specific items of cost anticipated as likely to arise in the performance of their respective duties under this contract shall be listed. Determinations of responsibility for specific items of cost agreed to by the parties under this section are to be consistent with the substantive clauses of this Contract; provided however, in the event of conflict, the substantive clauses of the contract shall prevail.

**3.24.2. Responsibility of the Carrier**

The Carrier is responsible for the cost of the following services:

**3.24.2.1. Tie-Down and Lashing Materials**

Furnishing and maintaining containers and chassis, and furnishing tie-down and lashing materials for loading to flatracks, flatcars, flatbed trucks, or other open top containers.

**3.24.2.2. Drayage**

Drayage of containers including: furnishing and maintaining tractors; furnishing drivers; CONUS delivery costs of movement of containers, including tractors and driver; highway, ferry, tunnel and bridge tolls; and user taxes.

**3.24.2.3. Vessel Operating Costs, Port Charges, etc.**

All costs of vessel operation and all port charges and other expenses charged to the Carrier's vessel.

**3.24.2.4. Stevedoring Costs**

All stevedoring costs and all costs of loading and discharging and preparation therefor.

**3.24.2.5. Container Terminal Costs**

All container terminal costs including receipt of containers; marshaling of containers; and cleaning containers before stuffing and after unstuffing.

**3.24.2.6. Breakbulk Terminal Costs**

All breakbulk terminal costs including loading and discharging operations.

**3.24.2.7. Taxes, Dues, Fees, etc.**

Taxes, dues, fees and other charges (including storage charges levied by governments, ports authorities, or wharfingers) on breakbulk cargo, on the containers, and on their contents, if any, except those charges which are payable by the Government.

**3.24.3. Responsibility of the Government**

The Government is responsible for the cost of the following services:

**3.24.3.1. Container Stuffing and Unstuffing**

Container stuffing and unstuffing, except when ordered from the Carrier, including: labor employed; packing material and/or dunnage employed; preparing documentation; sealing the container; removal of packing material, dunnage and cover or removal of placards; and sweeping.

**3.24.3.2. Fees for Services Ordered**

Miscellaneous dues, fees and charges including: cargo surveyor fees when services are ordered by the Government or when resulting from dispute between the Government and the Carrier resolved in favor of the Carrier; drayage or linehaul charges listed under Paragraph 3.24.2.2 above when performed by the Government.

**3.24.3.3. Palletizing, Drayage, Storage and Warehousing**

Palletizing, drayage, storage and warehousing; handling charges including terminal tariff handling charges according to the custom of the port; agency fees in connection with port clearance of cargo; customs and other fees, dues and/or taxes charged to the cargo; harbor and quay dues charged to cargo based on local tariffs.

**3.24.3.4. Landing and Wharfage Charges**

Landing and wharfage charges including: landing charges against cargo in accordance with the regulations of the port, including those billed by port authorities to the ship; wharfage charged to military cargo.

**3.24.3.5. Personnel Ordered by the Government**

Additional personnel ordered by the Government including: transportation and travel time of stevedore personnel when ordered from the local hiring by the Government for its account; documentation of cargo; overtime for customs, agriculture or public health officers provided for the convenience of the cargo, when requested by the Government; special cargo fire or security watch required by port regulations due to loading and discharging operations.

**3.24.3.6. Contaminated Cargo Costs**

Contaminated cargo costs including: fumigation required solely because of contaminated Government cargo, including related costs and detention; crew overtime in connection with standby security watch when required by the CO during loading and discharging; crew wages, fringe benefits and related payroll tax when ship's crew are performing longshore work in cargo operations at the request of the terminal or by custom of the port including members of the steward's department required to prepare additional meals.

**3.24.3.7. Delivery Costs for Non-Containerizable Cargo**

All costs of delivery of non-Containerizable cargo to the Carrier's terminal where the Carrier performs receipt and stuffing operations and receiving cargo at tailgate when the Carrier performs unstuffing operations.

**3.24.3.8. Charges for Movement of Unusual Size Cargo**

When ordered by the OO or their designated representative, fees and charges including: cost of pilot cars, escorts, required permits, and other charges assessed by state or local governments for permission to move unusual size cargo.

**3.24.4. Damage To or Loss Of Equipment****3.24.4.1. Damage to Carrier Equipment**

Should a container, chassis, tractor, or any other piece of Contractor equipment, excluding the vessel, be damaged or lost by act, neglect or failure of equipment of the Government, its agents, employees or Contractors (other than the prime Contractor) while such Contractor equipment is in the custody of the Government, its agents, employees or Contractors (other than the prime Contractor), the Government shall repair or reimburse the Contractor the least of the following: the reasonable costs of repairs or the fair market value of the container immediately prior to the loss or damage.

The Contractor will assign to the Government any rights, causes of action, or other claims which the Contractor may have against third parties with respect to such damage. The Government shall not be liable for the repair of any damage under this section unless written notice specifying such damage shall have been given to and acknowledged by the Government or its authorized representative at the time custody of the container or other equipment is returned by the Government to the Contractor.

**3.24.4.2. Loss/Theft of Carrier Equipment**

Carrier equipment shall be considered lost when theft or disappearance is certified as such by the OO/COR or its representative and upon concurrence by the CO. In addition, OO/COR may certify as lost those containers whose return to Carrier is impracticable or impossible due to conditions existing at destination, again subject to CO concurrence.

No pre-determined time frame shall govern when equipment must be declared lost under this Contract. Once a piece of Contractor equipment is certified as being lost, any per diem or detention or liquidated damage charges accruing for account of either the Contractor or the Government shall cease, effective with the date specified in the certification. Accrued charges after the date of certification shall be canceled and not considered part of the reimbursement to the Contractor.

**3.24.4.3. Damage to Carrier Vessel or Vessel Equipment**

Should the vessel or its equipment be damaged by act, neglect or failure of equipment of the Government, its agents, employees, or Contractors in loading or discharging the vessel, the Government shall reimburse the Carrier the reasonable costs of repairs and the Carrier will assign to the Government any rights, causes of action, or other claims which the Carrier may have against third parties with respect to such repairs.

In the event that any damage should occur to the vessel or its equipment as a result of the joint fault of the Carrier and the Government, payment for such damage shall be apportioned pro-rata in accordance with the respective degrees of fault. The Government shall not be liable for the repair of any damage under this section unless notice specifying such damage and the name(s) of the party or parties causing such damage shall have been given to and acknowledged by the Government or its authorized representative as soon as possible after the occurrence of such damage, or in any event before the vessel leaves the



berth or anchorage where the damage occurred, and provided, further, that the Government shall not be liable for the repair of any damage under this Section if such damage is caused by a Contractor by the Carrier and payment therefore has been refused.

#### **3.24.4.4. Damage to Government Equipment**

The Carrier shall be liable for loss of or damage to Government containers and chassis while in the Carrier's custody to the same extent that the Government is liable for loss or damage to the Carrier equipment while in the Government's custody. The Carrier will not procure insurance coverage on Government containers and will not be liable for any loss thereof under circumstances covered by the Carrier's war risk insurance on its own containers.

#### **3.25. Force Majeure**

The act of God, enemies, fire, restraint of princes, rulers of people, and all dangers and accidents of the seas, rivers, machinery, boilers and steam navigation, and errors of navigation throughout this Contract are mutually excepted. The vessel shall have the liberty to deviate for the purpose of saving life and property, to tow or to be towed, to sail with or without pilots, or to go into dry dock or into ways with or without cargo on board. However, in no case shall the Contractor be entitled to extra compensation for such a deviation and the Contractor shall not be relieved of responsibility for delivery of cargo to the destination named in the Shipping Order.

#### **3.26. War Risk**

##### **3.26.1. Reimbursement.**

Compensation. In the event it is necessary for the Carrier to pay additional premiums to extend the coverage of crew, hull and machinery, protection and indemnity insurance and insurance covering the loss and damage of cargo while aboard the vessel to include war risks, or to pay crew war risk bonuses as a result of the vessel entering the war risk area, the Government shall reimburse the Contractor at the appropriate rate filed on Carrier's commercial tariff. For Carriers that do not have filed commercial tariffs for such War Risk charges, the Government shall reimburse the Contractor for a percentage of such extra premium and bonus payments based on the ratio existing between the cargo carried for the account of MTMC and the total cargo aboard the vessel which is loaded or discharged at ports within the war risk area.

##### **3.26.1.1. Government as Additional Insured**

The Contractor agrees to add the United States Government as an additional insured on its War Risk Policy with waiver of subrogation noted, for which the Government has agreed to reimburse the extra premium under this section.

##### **3.26.2. Government Provided Insurance**

If Commercial Marine, War Risk, and Liability Insurance is not available or if Marine, War Risk, and Liability Insurance through the Secretary of Transportation under Sections 1202-1205 of the Merchant Marine Act of 1936, 46 App. U.S.C. 1282-1285, is available at a lesser rate, the Procuring CO (PCO) reserves the right to require Contractors to obtain the necessary Marine, War Risk, and Liability Insurance from the Secretary of Transportation. Further, in the event that the Secretary of Defense, or his/her authorized designee, is authorized to provide and does provide indemnification to the Secretary of Transportation under Section 1205 of the Merchant Marine Act, 1936, 46 App. U.S.C.

1285, for Marine, War Risk, and Liability coverage without premium, the CO reserves the right to require the Contractor to obtain such insurance from the Department of Transportation and no premiums as set forth in Paragraph 3.26.1 above will be paid to the Contractor by the Government.

**3.26.3. Limitation of Government Liability**

Limitation of Government Liability. No payments shall be due from the Government under this section unless and until the Contractor shall also assess such charges against commercial cargo loaded or discharged in the war risk area.

**3.27. Security – Crew as Risk**

If the Government notifies the Carrier that the employment or the continued employment of the “Master” or any member of the crew is prejudicial to the interests or endangers the security of the United States of America, the Carrier shall make any changes necessary in the appointment(s). Any costs to the Carrier occasioned by such changes shall be reimbursed by the Government.

**3.28. References to Master, Crew, Container, etc.**

All references in this contract to “Master” or “Crew” or other ship's personnel shall be deemed to be references to “Carrier's Representative” except when the context precludes such reading.

All references to “container” shall be deemed to include trailers and railcars unless the specific language precludes such a reading. All references to not otherwise specified (ANY) shall be deemed to be references to “General Cargo” except when the context precludes such a reading.

**3.29. Scope Of Voyage (Liberties)**

In any situation, whatsoever or wheresoever occurring and whether existing or anticipated before commencement of or during the voyage, which in the judgment of the Contractor or Master of the vessel is likely to give rise to capture, seizure, detention, damage, delay or disadvantage to or loss of the vessel or any part of her cargo, or to make it unsafe, imprudent, or unlawful for any reason to begin or continue the voyage or to enter or discharge the goods at the port of discharge, or to give rise to delay or difficulty in arriving, discharging at or leaving the port of discharge or the usual place of discharge in such port, the Master, whether or not proceeding toward or entering or attempting to enter the port of discharge or reaching or attempting to reach the usual place of discharge therein or attempting to discharge the Government's goods may, upon notification to and with the consent of the CO, discharge the goods into another port, depot, lazarette, craft, or other place, or retain the goods on board until the return trip or until such other time as is deemed mutually advisable.

This notice shall include, but not be limited to, the planned port of discharge of the cargo and any measures planned to protect the cargo. If the CO determines that the planned disposition of the cargo is not in the Government's best interest, the Contractor shall comply with the PCO's direction to the Contractor to divert the cargo to a port of the Government's choice and to make any other arrangements for the cargo the PCO deems necessary to protect the Government's interest. The Contractor may be entitled to an equitable adjustment to the Contract for actions taken pursuant to the PCO's direction.

However, for any services rendered without prior notice to and consent of the CO, the Contractor shall not be entitled to an equitable adjustment. In no such case shall freights be payable until the goods are delivered to the named destination on the Shipping Order. In any event, the Contractor shall at all times be responsible to assure the security and protection of the cargo until relieved of such responsibility by the Government or its designated agent.

The Contractor, the Master and the vessel shall have liberty to comply with any orders or directions as to loading, departure, arrival, routes, ports of call, stoppages, discharge, destination, delivery or otherwise howsoever given by the Government of any nation or department thereof or any person acting or purporting to act with the authority of such Government or of any department thereof, (or by any committee or person having, under the terms of the War Risk Insurance on the vessel, the right to give such orders or directions). Delivery or other disposition of the goods in accordance with such orders or directions shall be a fulfillment of the contract voyage. The vessel may carry seized contraband, explosives, munitions, warlike stores, hazardous cargo, and may sail armed or unarmed and with or without convoy.

### **3.30. Exception**

An act of God (force majeure), enemies, fire, restraint of princes, rulers of people, and all dangers and accidents of the seas, rivers, machinery, boilers and steam navigation, and errors of navigation throughout this contract are mutually excepted. The vessel shall have the liberty to deviate for the purpose saving life and property, to tow or to be towed, to sail with or without pilots, or to go into dry dock or into ways with or without cargo on board. However, in no case shall the Carrier be entitled to compensation for such deviation and the Carrier shall not be relieved of responsibility for delivery of the cargo to the destination named in the Shipping Order.

### **3.31. Strikes**

#### **3.31.1. Loading Port**

In the event the vessel or the loading of the vessel is delayed by reason of strikes or stoppage of work, the Contractor may, at the loading port dispatch the vessel with such portion of the cargo as may then be on board.

#### **3.31.2. Discharge Port**

In the event the vessel or discharge of the vessel is delayed by reason of strikes or stoppage of work, the Contractor at the discharge port may discharge the cargo still on board or with the approval of the Government dispose of the cargo or any part of it at the Government's risk and expense.

### **3.32. Amended Jason Clause**

In the event of accident, danger, damage, or disaster, before or after commencement of the voyage resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the Contractor is not responsible, by statute, contract, or otherwise, the goods, Shippers, Consignees, or owners of the goods shall contribute with the Contractor in general average to the payment of any sacrifices, losses or expenses of a general average nature that may be made or incurred, and shall pay salvage and special charges incurred in respect of the goods. If a salvaging vessel is

owned or operated by the Contractor, salvage shall be paid for as fully as if such salvaging vessel or vessels belonged to strangers.

### **3.33. General Average**

General average shall be adjusted, stated and settled, according to York-Antwerp Rules 1974 as amended 1990, at such port or place in the United States as may be selected by the Contractor, and as to matters not provided for by those Rules, according to the laws and usages at the Port of New York. In such adjustment, disbursements in foreign currencies shall be exchanged into United States currency at the rate prevailing on the dates made and allowances for damage to cargo claimed in foreign currency shall be converted at the rate prevailing on the last day of discharge at the port or place of final discharge of such damaged cargo from the ship.

### **3.34. Liens**

#### **3.34.1. Seizure of Cargo**

The Contractor agrees that it will not assert any type of lien, including a maritime lien, on any cargo shipped by the Government under this Contract. The Contractor further agrees that it will not take any action to seize, arrest, hold, or otherwise detain such cargo through any judicial process in the U.S. or any foreign country. The Contractor agrees to insert this clause in all subcontracts at any level and to expend any resources necessary to expeditiously enforce the provisions of this clause against such subcontractors.

#### **3.34.2. Freight**

There shall be no liens, including maritime liens, asserted on any freights payable by the Government under this contract. The Contractor agrees to insert this clause in all subcontracts at any level and to expend any resources necessary to expeditiously enforce the provisions of this clause against such subcontractors.

### **3.35. Rate Rules**

#### **3.35.1. Expression of Rates**

All rates appearing in this contract are stated in U.S dollars and cents per applicable unit of measure and apply to all cargo moving under this contract.

#### **3.35.2. Single Factor Rates**

Single factor rates include all segments of a transportation move from point of origin to destination. Mileage tables may not be used in conjunction with a single factor rate (see paragraph 3.2.13).

#### **3.35.3. Bi-Factor Rates**

Bi-factor rates consist of two parts of a point-to-point move, i.e., one inland point and the ocean portion (point to port or port to point). While Bi-factor rates can be used as an ocean/port rate individually, their primary purpose is to be combined with mileage linehaul rates to create a complete through point-to-point rate. These combination rates (Bi-factor plus mileage) are intended for those occasional instances where requirements arise from a new origin or destination not previously identified, i.e., a new vendor, depot, etc. Should the new origin or destination points generate recurring movement of cargo for a period exceeding sixty (60) days, a single factor ongoing rate shall be negotiated. Bi-factor rates will not be used when established single factor rates are in effect for the same point or port move.

**Note:** In the case of Puerto Rico, Bi-factor rates apply only between East/Gulf Coast ports and the port of San Juan, Puerto Rico. A CONUS mileage rate would be added to these rates to obtain a complete Bi-factor point-to-point rate.

**3.35.4. Container Internal Cubic Capacities and Rates**

The average internal measurement tonnage capacities as listed in Attachment 4 are to be used for informational purposes by the Shipper to determine the size or combination of sizes of containers/trailers required for Shipment. Shippers are given a variety of optional lengths of containers/trailers to utilize. See paragraph 3.2.9 for computation of the rates applicable to the particular container/trailer.

**3.35.5. Containers Stuffed by the Government**

Containers stuffed by the Government shall be freighted by applying the applicable rates set forth in this contract per container type/size ordered by the OO.

**3.35.6. Containers Stuffed by the Carrier**

Except for transloading service, containers stuffed by the Carrier shall be freighted on the manifest measure of cargo actually shipped. Cargo stuffed by the Carrier that weighs out (reaches the allowable weight limit of the container) shall be carried at the applicable rate as set forth in this contract per manifested type/size container.

Cargo shipped in flatrack containers shall be freighted at the General Cargo container rate. In addition, the Carrier's lump sum flatrack surcharge will be added to the total freight for this cargo. This provision is not applicable to excepted commodities.

**3.35.7. Movement of Empty Government Owned or Leased Containers**

The basic rate for empty Government furnished containers will be fifty (50) percent of the applicable general cargo container rate, except for empty Government flatrack containers, car carriers, or other specialized types of containers/trailers.

The Carrier's charges for inland movement of empty Government containers/trailers will be the same as the Carrier rates contained in the Schedule of Rates.

When the Carrier provides any of the services for Accessorial Rates, in connection with service provided to Government containers, the appropriate Carrier rates contained in the Schedule of Rates will be applicable.

**3.35.8. Hazardous Cargo Surcharge**

The lump sum surcharge will only apply, per container, to hazardous cargo requiring on deck stowage per Coast Guard Regulations. The surcharge will be in addition to the general cargo container rate. This charge does not apply to excepted commodities.

**3.35.9. Small Arms Ammunition**

Small Arms Ammunition (International Marine Organization (IMO) Class 1.4) is moved at the same rate as general cargo.

**3.35.10. Inland Rate Application CONUS**

Mileage rates are stated as one-way mile rates by container size and are only used where no specific rate exists. The DTOD is the official source for calculating distances when applying mileage rates. A commercial product that is DTOD-compliant is "PC\*Miler" that will produce distance calculations identical to DTOD. Contractors who have






PC\*Miler will be provided a file of the official mileages to be used for all point to port and port to point combinations using mileage based rates. Contractors who elect to use another source for computing mileages cannot be provided this file. Should there be any differences in the mileages computed by DTOD and the mileage invoiced by the contractor, the Contractor will be paid based on the DTOD mileages.

### 3.36. Over-Dimensional Cargo

Selection of the equipment used for ocean transportation shall not result in over length dimensions when the cargo is loaded on the container/trailer, unless the Carrier and the Government mutually agree to this at the time of cargo booking. For example, cargo twenty-four (24) feet in length shall be loaded on a forty (40) foot flatrack, not a twenty (20) foot flatrack.

#### 3.36.1. Over-Dimensional Cargo Charges

Charges for over dimensional cargo stowed on a vessel in containers/trailers shall equal the additional ocean rate for equivalent displaced standard dry container(s) by size, in accordance with the following formula (which includes use of a flatrack container):

Ingauged:	BOF (Basic ocean freight) <u>+FRS (Flatrack surcharge)</u> TP (Total price)	
Overheight:	BOF+(BOF x 65%) <u>+FRS</u> TP	 
Overwidth:	BOF+((BOFx2) x 65%) <u>+FRS</u> TP	
Overheight and overwidth:	BOF+((BOFx5) x 65%) <u>+FRS</u> TP	

NOTE: The blocks in the above examples depict the displaced cells based on shipments being over height, over width, or both over height and over width. The black block is the loaded flatrack and the gray blocks are the displaced cells.

- A thirty-five (35) percent discount off the basic ocean freight rate shall be applied for displaced slots in any configuration.
- If other than flatracks are used to ship over dimensional cargo, the flatrack surcharge shall not be applied to the formula.
- Flatrack surcharges shall not apply to Government owned flatracks in the rate computation for over dimensional cargo.
- Displaced slots for which charges are assessed will be counted toward the minimum cargo guarantee.
- Cargo that cannot be loaded on or in an intermodal container (closed, open top, flatrack) prior to stevedoring is not covered by this formula.

- The overdimensional formula is limited to port-to-port terms only. Basic ocean freight (BOF) is the General Cargo Ocean Container Rate from the Table of Rates of the General Contract Section (GCS).
- This formula can be applied to cargo exceeding either the weight and/or the dimensions defining overdimensional cargo when the Government and the Carrier mutually agree to do so at the time of cargo booking.

**3.37. Inoperable Vehicles**

In accordance with booking terms, when the Government requests the Carrier to provide loading and/or discharging service for self-propelled wheeled or tracked vehicles, and the vehicle(s) are delivered in an undriveable condition or become inoperable prior to loading or discharge, the Government will be liable for the extra handling incurred by the Contractor at a rate of seventy five (75) dollars per vehicle at origin, if applicable, and/or seventy five (75) dollars at destination, if applicable, maximum not to exceed one hundred fifty (150) dollars per vehicle. The Contractor shall certify that the vehicle is inoperable, stating the TCN and/or vehicle serial number, vessel name and voyage number, sailing date and port of loading/destination.

**3.38. Carrier Imposed Weight Restrictions**

When a container is precluded from being utilized to its maximum capacity because the Carrier imposed restrictions which limit the weight carrying capacity below the maximum weight carrying capacity of the container, the cargo shall be freighted at the applicable measurement ton basic rate applied to the manifest measure of the cargo and the container shall not be subject to a minimum charge regardless of whether stuffed by the Government or the Carrier. Containers on which such restrictions are imposed shall not be utilized under this contract if acceptable containers are available for the required service from any other Carrier who does not impose a restriction. The Carrier shall give notification of exceptions to weight carrying capacity in accordance with paragraphs 3.1.2 and 3.3.3.

**3.39. Maximum Charge**

The maximum charge for a closed container/trailer shall not exceed the basic single factor of the container/trailer, converted in accordance with the factors set forth in Attachment XX, regardless of the measurement tonnage shown on the manifest.

**3.40. Government Furnished Containers**

The Carrier's charges for through transportation of commercially acceptable dry or refrigerated Government containers will be ninety-five (95) percent of the appropriate rate for that cargo commodity.

**3.41. Discount for Tandem Trailers**

If tandem trailers are line hauled, the total freight for that line haul shall be one hundred seventy (170) percent of the cost of line-hauling one trailer/container.

## **4.0 DEFINITIONS**

As used throughout this Contract, the following terms shall have the meaning as set forth below:

### **Administrative Contracting Officer (ACO)**

Is a warranted CO who is responsible for, but not limited to the following: appoint and train the Contracting Officer Representative (COR), issue administrative modifications, analyze Contractor claims, evaluate the Contractor's performance, and provide reports on the Contractor's performance to the CO.

### **Agreement**

See Contract.

### **Available for Onward Movement**

Container/Chassis is ready to be hooked to a tractor, fully operational and ready to meet all road and safety requirements, including operable lights, brakes and support equipment.

### **Boats**

Includes all craft in excess of thirty-five (35) feet in length assigned exclusively for use on or under water and may or may not include a cradle for stowage.

### **Booking**

Offer by the Government and acceptance by the Contractor for the transportation of goods pursuant to the applicable rates, terms and conditions of the subject contract.

### **Breakbulk/RORO Cargo**

All cargo that is not Containerizable.

### **Bulk Cargo**

Dry or Liquid Cargo which is not subject to mark or count, shipped in fluid or loose state and not packaged for ocean carriage in any manner, such as grain, ore, coal, chemicals, oil, liquid latex, etc.

### **Car Carrier**

A trailer/container of open framework designed for carriage of automobiles or other unboxed vehicles.

### **Cargo Trailer**

See "Van".

### **Carrier**

Any Carrier awarded a Contract pursuant to this solicitation, including its agents and subcontractors. The term "Carrier" is used interchangeably with the term "Contractor."

### **Chassis**

A platform equipped with running gear and front end support on which a container is placed for transport.

### **Commercial Zone**



The pickup and delivery limits of cities, ports and municipalities in the United States as defined by the Surface Transportation Board (STB) and published in 49 CFR Part 1048, on the date service is provided by the Carrier.

**Consolidation**

Practice of consolidating many less-than-container load cargo in order to make container load movements.

**Container**

A cargo conveyance which confines and protects the cargo from loss or damage, can be handled in transit as a unit and can be mounted and secured in or on marine, rail or highway equipment. Common types of containers are: weatherproof, (dry enclosed, refrigerated, van, tank, high cube), non weatherproof, (open top, car carrier, flatracks, flatbed, lowbed or platforms.

**Container Detention**

Government ordered delay in commencement of drayage/linehaul (container staging) or Government delay in unstuffing of containers at destination when total delay exceeds total freetime allowed.

**Containerizable Cargo**

All cargo which can be physically loaded in or on a container.

**Contract**

This document which contains the contractual terms pursuant to which a Carrier agrees to accomplish transportation of such lawful cargo as may be tendered by the Government.

**Contracting Officer (CO)**

A CO within the scope of that definition in Federal Acquisition Regulation 52.202-1, who has been appointed or designated as such by the PARC, HQ MTMC. (See Procurement Contracting Officer)

**Contracting Officer Representative (COR)**

Appointed in writing by the CO. Responsible for, but not limited to, the following: monitors the Contractor's performance in accordance with the terms and conditions of the contract, ensures Contractor's compliance with reporting requirements, provides data for Government reports, verifies/certifies services and conducts initial review of Contractor's claims.

**Contractor**

See Carrier.

**Continental United States (CONUS)**

Forty-eight (48) contiguous states of the United States of America.

**Cutoffs**

Local Cutoffs - The date and time publicly established by the Carrier when the cargo must be tendered to the Carrier at its terminal facility, or to the Carrier's agent to meet the requirement for lift from the inland origin of the cargo.

**Vessel Cutoffs** - The date and time publicly established by the Carrier when the cargo must be tendered to the Carrier at its terminal facility, or to the Carrier's agent to meet the requirement for lift to the booked vessel.

**Dead Freight**

Liability to pay for space booked but not used.

**Deck Cargo**

Includes all cargo stowed in open spaces on deck except Hazardous Cargo, which, in accordance with U.S. Coast Guard rules, must be stowed on deck.

**Defense Table of Official Distances (DTOD)**

The distance source for all rates, standards, or charges which require a point to port, port to point or point-to-point distance. DTOD is published by ALK Associates of Princeton, NJ. PC\*Miler is their commercial, DTOD compliant product.

**Detention**

Charges assessed against the Government for delaying the release of Carrier equipment beyond allowed free time (See also Container Detention).

**Discharging**

The physical movement of cargo/container from the place of stowage on board a vessel to the pier.

**Diversión**

To change the booked destination of a loaded container/trailer after transit has commenced, but before the container has commenced final drayage/linehaul from the port of discharge.

**Drayage**

The movement of cargo/container between the Carrier's terminal at the port where the cargo/container is loaded to or discharged from the vessel and another place within the commercial zone or modified zone of that United States port city or within a ten (10) mile radius of that city's limits, by means other than the Carrier's principal vessels, such as by highway or railway.

**Driver Standby Time**

The period of time that the inland participating cargo carrier (truck driver) waits with the container during a split pick-up/delivery service.

**Dry Container**

A completely enclosed weatherproof container.

**Explosives**

Includes all military explosives (IMO Class 1.1, 1.2, 1.3), military lethal chemicals, and other items included in Title 49 Code of Federal Regulations, Part 171 et seq (CFR et seq).

**FEU**

Forty (40) foot equivalent unit.

**Flatrack (Platform) Container**

A container without weatherproof sides and/or top. Includes platforms and flatracks with rigid or collapsible ends. They can be end loaded, top loaded or side loaded.

**Free-In-Out**

Loading and discharging services are to be performed by the Government.

**Futile Effort**

The good faith effort of a Carrier to accept cargo which is futile due to fault of the Government. Does not include the instance in which the Carrier spots a container for a particular booking which does not materialize, but is able to utilize the spotted container for another booking without returning the container to its place of origin.

**General Cargo**

All dry cargo other than refrigerated cargo and vehicles. Dry cargo refers to shipments of straight or mixed loads of the commodities listed in the Military Standard Transportation and Movement Procedures including hazardous cargo and Class I lethal chemicals (See "Explosives" in this attachment for the reference citing the classes of lethal chemicals).

**Government**

The United States Government, its agents and Contractors, party to this Contract, and the Consignees, their agents and Contractors unless used in a context to refer to another Government such as a foreign or local government. Does not include Contractors party to this Contract. Ordering activities authorized under this Contract are included.

**Government Tractor**

A tractor used by the Government to transport the Contractor's containers placed on chassis or over-the-road trailers.

**Heavy Vehicles**

A breakbulk/RORO cargo – Wheeled or tracked vehicles (unboxed) exceeding 10,000 lbs per unit.

**Hazardous Cargo**

A substance or material including a hazardous substance, which has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety and property when transported in commerce and which has been so designated.

**Inoperable**

Not capable of being operated. This shall not include vehicles, which are required to be inoperative for containerization.

**K-Term**

A container booking wherein the ocean Carrier accepts or terminates responsibility at the terminal. The Government is responsible for having the cargo or container either moved to and/or removed from the Carrier's terminal i.e., pier-to-pier service.

**Light Vehicles**

A breakbulk/RORO cargo – Wheeled or tracked vehicles (unboxed) up to and including 10,000 lbs per unit.

**Linehaul**

The movement of a container between the Carrier's terminal at the port where the container is loaded to or discharged from the vessel and another place outside the commercial zone or modified zone of that United States port city or beyond a ten (10) mile radius of the city limits by means other than the Carrier's principal vessels, such as by highway, railway, canal or river, or in specific instances by ferry or barge system.

**Liner Terms**

The Carrier assumes all responsibilities and cost for the cargo from the port or point where the cargo is receipted for by the Carrier to the destination port or point where the Carrier makes the cargo available to the consignee.

**Loading**

The physical movement of cargo/container from the pier to place of stowage on board a vessel.

**M Term**

The Carrier assumes all responsibilities and cost for the cargo from the point where the cargo is receipted for by the Carrier to the destination point where the Carrier makes the cargo available to the consignee i.e., door-to-door service.

**Measurement Ton (MT)**

Forty (40) cubic feet or 2,240 lbs., whichever will generate the highest tonnage units and revenue when applied to the dimensions and weight of cargo.

**Military Traffic Management Command (MTMC)**

Commander, Military Traffic Management Command, Office of the Principal Assistant Responsible for Contracting, Transportation Acquisition Division (MTAQ-JI), appointed and designated as the CO.

**MILSTAMP**

Military Standard Transportation and Movement Procedures.

**No Show**

Booked cargo that is not available for lift on board the scheduled vessel sailing through no fault of the Contractor and which was not timely cancelled.

**Open Top Containers**

A Container without a permanently affixed metal top. Top is a removable tarpaulin, which is supported by roof bows.

**Ordering Activity**

Includes the Commander, Deployment Support Command or his/her designee, and Military Traffic Management Command, or his/her designee, and other agencies as designated.

**Ordering Officer (OO)**

Appointed by the Chief of Acquisition, MTMC, with a copy provided to the Carrier. Responsible for, but not limited to, the following: books cargo and issue shipping orders, samples bookings for low cost, monitors cargo allocation, recommends addition/deletion of routes/services, authorizes substitution of equipment and authorizes staging.

**Over-Dimensional Cargo**

Cargo that when booked to be shipped as container cargo where any one dimension exceeds any external container dimension of eight (8) feet wide or eight (8) feet six (6) inches high but does not exceed the following maximum dimensions:

### **Maximum Dimensions**

<b>Weight</b>	<b>Length</b>	<b>Width</b>	<b>Height</b>
48,000 lbs.	40 feet 8 inches	11 feet	11 feet

### **Oversized Container Cargo**

Cargo which when stowed aboard a cellular container ship would require more space than the space needed to load a forty (40) feet long, eight (8) feet six (6) inches high, eight (8) feet wide dry container; i.e., would require more than one (1) container space of this size. Exceptions to this definition are described as “Over Dimensional Cargo.”

### **Oversized Breakbulk Cargo**

Cargo that has any one dimension over fifty (50) feet long, more than eleven (11) feet wide or over eleven (11) feet high, or as determined by the OO, requires special handling equipment for loading aboard or discharging from a vessel because of that cargo's atypical size. All wheeled or tracked vehicles regardless of size are excluded from this definition. Extra length charges are not applicable to cargo defined as oversized cargo.

### **Personal Property**

Personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling.

### **Place Designated By The CO**

Places within the commercial zone of United States ports or inland cities, and places within a ten (10) mile radius of the city limits of any U.S. port or inland city or limits of other places designated in the Schedule of Rates.

### **Platform**

A container/trailer with no sides or top, but only the floor.

### **Protected Stow**

The placement of cargo in a manner, which can be stowed either above or below deck that will protect the cargo from wind, water, and other damages associated with the weather and sea.

### **Rail Intermodal Equipment**

A unit for transporting commodities in trailer or container on freight-car service from point-to-point, constructed in such a manner that it may be mounted and secured on a car, chassis or bogie for the purpose of such locomotives.

### **Receiving Activity**

Place, other than the Carrier's terminal, designated by the OO for receipt of cargo/containers from the Carrier for stuffing or unstuffing.

### **Refrigerated Container**

A weatherproof container used for the carriage of controlled temperature cargo which is properly insulated against the effects of temperature outside the container and is equipped with mechanical, thermostatically temperature controlled air circulation or air exchange cooling equipment with venting capability capable of providing temperature protection to cargo, between seventy five (75) degrees and minus ten (-10) degrees Fahrenheit.

Further definition is as follows:

**Non-Self-Sustaining.** A refrigerated container, which requires a power or fuel source, not mounted on the refrigerator or its chassis, to operate the refrigeration unit.

**Self-Sustaining.** A refrigerated container which does not need an external power or fuel source, and upon which a self-contained power unit is mounted, either on the container or its accompanying chassis. The container is self-sustained only while the power unit and its fuel source are mounted.

### **Regularly Scheduled Sailings**

Sailing at regular intervals maintained between the same port ranges and consisting of regular arrivals and departures along an established route.

### **Relay Service**

Service by which an ocean Carrier serving the port of origin by direct vessel call with one of its vessels and the port of destination by direct vessel call with another of its vessels provides transportation between such ports via an intermediate port served by both vessels at which cargo is transferred from one vessel to the other.

### **Required Delivery Date (RDD)**

A date established by the application of the standards in the contract when cargo must be delivered by the Contractor. RDDs will not require delivery in less time than the standard, unless mutually acceptable between the OO and the Contractor in the booking.

### **Rerouting**

To change the booked destination of a loaded container after final drayage/linehaul has commenced from the port of discharge. Short stop, stop-off, and re-spot shall not be considered rerouting regardless of when they occur.

### **Respot**

To move a container from the initial point of delivery within a facility to another point within that facility.

### **Schedule**

Where used, this term refers to the items listed in the CARES II SM tables as noted in the CLIN description. These tables contain the rates approved for use with this contract.

### **Short Stop**

To stop a stuffed container at the Carrier's terminal where the Government elects to take delivery.

### **Shutout**

Cargo that is available for stevedoring but unable to be loaded on board the vessel to which it is booked, due to operational circumstances or overbooking of the vessel.

### **Split Pick-Up/Delivery**

The subsequent movement of a conveyance from one load/off-load station within a facility to another load/off-load station within that same facility for additional stuffing and/or stripping.

**Spot**

The placement of a container for stuffing or stripping.

**STB**

Successor Agency to the Interstate Commerce Commission and Commission Termination Successor Agency to ICC, the agent of Congress designated to implement the Interstate Commerce Act which regulates rates, rules, and practices of rail transportation lines engaged in interstate traffic, motor Carriers, common and contract water Carriers operating in domestic trade, and freight forwarding companies.

**Stop-Off**

Stopping a container en route at a place designated by the OO for additional stuffing/unstuffing.

**Stripping**

The process of unloading a container.

**Stuffing**

The placement of cargo into a container including any necessary chocking, bracing, or dunnaging.

**Swing Cargo**

– Cargo, which may be Containerizable or shipped breakbulk/RORO.

**TEU**

Twenty (20) foot equivalent unit. A method of quantifying the number of ocean containers. For example, one (1) twenty (20) foot container equals one (1) TEU and one (1) forty (40) foot container equals two (2) TEUs.

**Tractor**

A motor vehicle designed primarily for hauling containers/trailers over the road.

**Trailer**

A vehicle designed without motive power, to be drawn by another vehicle and so constructed that no part of its weight rests upon the towing vehicle.

**Transshipment**

Service by which one ocean Carrier serving a port of origin by direct vessel call and another such Carrier serving a port of destination by direct vessel call provide transportation between such ports via an intermediate port served by direct vessel call of both Carriers, and at which cargo will be transferred from one Carrier to the other.

**Underdeck Stow**

The placement of cargo in a manner which is stowed below the vessel's deck in its holds and protects the cargo from wind, water, and other damages associated with the weather and sea.

**Van**

A motor vehicle permanently mounted on undercarriage and wheels.

**Wheeled Or Tracked Vehicles (Unboxed And Containerizable)**

Includes all types of unboxed, land or amphibious equipment or conveyances, set up on wheels or tracks, whether or not self-propelled, but excluding railroad locomotives and set up railroad rolling stock. Vehicles shall be freighted on the basis of extreme dimensions as offered for shipment.

**Working Day**

Excludes weekends and locally observed holidays.

**End of Statement of Work**



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## 52.211-11 LIQUIDATED DAMAGES--SUPPLIES, SERVICES, OR RESEARCH AND DEVELOPMENT (SEP 2000)

(a) If the Contractor fails to deliver the supplies or perform the services within the time specified in this contract, the Contractor shall, in place of actual damages, pay to the Government liquidated damages of as provided in paragraphs 9.6.6.13 and 9.6.6.14, per calendar day of delay [**CO insert amount**].

(b) If the Government terminates this contract in whole or in part under the Default--Fixed-Price Supply and Service clause, the Contractor is liable for liquidated damages accruing until the Government reasonably obtains delivery or performance of similar supplies or services. These liquidated damages are in addition to excess costs of repurchase under the Termination clause.

(c) The Contractor will not be charged with liquidated damages when the delay in delivery or performance is beyond the control and without the fault or negligence of the Contractor as defined in the Default--Fixed-Price Supply and Service clause in this contract.

(End of clause)

### Instructions to Offerors - Commercial Items

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**FAR 52.212-1**

Submission of Offers, Paragraph (b) is hereby amended as follows:

Special Notes to Offerors:

A. Written and electronic submissions are required in response to this solicitation.

B. Proposals submitted by offerors will not obligate the Government to determine a competitive range, conduct discussions, or solicit or entertain revised or Final Proposal Revisions (FPRs).

C. The Government reserves the right to incorporate all, part or none of the offeror's written proposal into the resultant contract.

D. A Pre-proposal Conference will be held; the date, time, and location will be provided at a later date. Fax written questions or items for discussion may be directed to the attention of Ms. Carolyn Corria and Mr. Bill Mills at (703) 428-3325 or email to: [corriac@mtmc.army.mil](mailto:corriac@mtmc.army.mil) and [millsw@mtmc.army.mil](mailto:millsw@mtmc.army.mil).

**I. SUBMISSION OF OFFERS**

A. In response to this request for proposals (RFP), an offeror must mail or hand-deliver a written proposal in accordance with Part III of this section, titled Written Proposals, including all representations and certifications to the address listed in paragraph D1 of this section.

B. The offeror must also electronically submit proposed rate offers, pro-forma schedules vessel specifications using the Carrier Analysis & Rate Evaluation System, Service Module (CARE II SM) The CARE II SM is accessible through the Internet using the CARE II System Center Web Site at the Internet address listed in Section II, paragraph A.

It is anticipated that the period of performance for this contract will be a one-year base period with two (2) one year option period. Upon the Government's decision to exercise the option CARE II SM data base or its successor will be made available with the most current shipper forecast for submission of option year pricing. It is anticipated that CARE II SM, or its successor, will be reopened on or about \_\_\_\_ 2003. All rates offered must be submitted in accordance with the instructions specified in Section II of Addendum to FAR 52.212-1 Instructions to Offerors - Commercial Items.

C. Offerors intending to respond to this solicitation must provide a written request for a CARE II user account in accordance with Section II, paragraph C. All of the information necessary to complete the electronic submission of the offer can be found at the Internet address listed in paragraph Section II paragraph A. The data required to be submitted through the CARE II SM database in support of a technical capability determination consists of two (2) main sections:

1. Service Profile
2. Vessel Profile

D. The written and electronic proposal must be submitted to the addresses listed below and must arrive prior to 1300 hours (1:00 PM) Eastern Standard Time \_\_\_\_\_ and remain firm for 120 days. The written portion of the offer must be enclosed in a sealed envelope marked "Request for Proposal No. DAMT01-03-R-0023. The offeror's name and address should appear in the upper left-hand corner, and the envelope should be enclosed in a second envelope that must be sent to the address listed in below.

1. The written proposal must be sent to the Contracting Officer at the following address:

Military Traffic Management Command  
 Attention: MTAQ-JI (Mr. William Mills)  
 Hoffman Building II, 200 Stovall Street, Room 12S67-64  
 Alexandria, VA 22332-5000  
 FOR DELIVERY ONLY TO ACQUISITION DIVISION

2. Any and all questions can be directed to:

Ms. Carolyn Corria  
 Telephone number (703) 428-2038  
 FAX number: (703) 428-3325  
 E-mail address: [corriac@mtmc.army.mil](mailto:corriac@mtmc.army.mil)

E. If negotiations are conducted and Final Proposal Revisions (FPRs) are requested each offeror will be notified by e-mail, fax or telephone of the date and time. Each offeror must submit FPRs to the electronic and written proposal to the addresses listed above in Section D paragraphs 1 and 2.

F. Company facsimile number and email/internet address must be provided with all offers.

G. Submission of Rates. All rates offered must be submitted in accordance with the instructions specified in Section 2 below.

F. All offerors are required to submit their standard carrier Abbreviation Code (SCAC) with their proposal.

## **II. ELECTRONIC OFFERS**

- A. The electronic proposal must be submitted using the following Internet address:

<https://care2web.eta.mtmc.gov/care/caremain.asp>

The following Internet address may be used as a backup:

<https://care2web.eta.mtmc.armv.mil/care/caremain.afip>

- B. Care II Service Module Application Instructions

1. Carriers submitting an offer of service for any trade route are required to complete the forms contained in the CARE II SM. Instructions for this application can be obtained from the CARE II System Center Web Site.
2. Carriers must submit schedule, service and vessel information on ocean service in the CARE II SM associated with each trade route for which rates are offered. Carriers should enter the service that provides the shortest transit the carrier is willing to offer between the origin and the destination.
3. Note that a rate offered with the value of "0.00" (zero) will be considered as "no charge" for service by the Contracting Officer.
4. All basic container rates, unless otherwise specified, are to be offered in dollars and cents per container (lump sum).
5. All basic breakbulk rates, unless otherwise specified, are to be offered in dollars and cents per measurement ton (MsT) of 40 cubic feet manifest measure, and apply on an FIO basis.
6. Changes to rate offers can be made to any contract Rate Submission (\*) as identified in the CARE II SM. The offeror must enter changes to offers in dollars and cents per MsT or per container or as otherwise specified, in the appropriate line item field. Offers may be changed until the offeror transmits the final proposal revision.

7. All reports can be printed using any local or network printer. The reports are formatted to fit on 8 ½ " by 11" paper.
8. Carriers must immediately notify the Contracting Officer in the event difficulties in accessing the CARE II SM data is encountered. If carriers are unable to access the CARE II SM to enter the required data in sufficient time to be received by the Government by the date established for receipt of proposals, they may request authorization from the Contracting Officer to submit a hard copy containing the required proposal data. Offerors are advised that in the event submission of hard copies is authorized, timely submission of offers is still required in accordance with the terms of the solicitation. In the event both electronic proposal and hard copy proposal are received in a timely manner from the same carrier, the electronic proposal will take precedence.

#### C. Request For CARE II Service Module User Account.

The CARE II Service Module user account will consist of a User ID and Password, each unique to the individual offeror. The offeror is required to add its Standard Carrier Alpha Code (SCAC) to the list of information required to obtain a CARE II SM account. The Carrier Analysis & Rate Evaluation Service Module (CARE II SM) application will be provided only upon written request. Requests for the application must be submitted to the Contracting Officer in the following format:

(Company Name) hereby requests a user account(s) be established to allow access to the CARE II System Center to facilitate the solicitation of proposed service offers under Request for Proposal No. DAMT01-03-R-0023.

Individual Name

Individual Name

(Signed by Authorized Company Representative)

Name of Company Representative

Title of Company Representative

Telephone Number:

FAX Number:

Email Address:

Upon receipt by the Contracting Officer of the request, the CARE II Service Module user ID and password will be made available to the requesting party within two (2) working days via facsimile or e-mail. Facsimile requests may be made to 703-428-3325 to the Contracting Officer's attention. The CARE System Center can be accessed through the Internet at the Internet address identified in Section II, paragraph A.

#### - Hardware and Software Requirements

- (1) The minimum hardware and software requirements for the operation of the CARE II SM application are:

- ☐ Pentium or higher processor
- ☐ Windows 98, Windows NT, or Windows 2000
- ☐ 64 MB RAM (128 MB recommended)
- ☐ 50 MB hard disk space
- ☐ Super VGA monitor with 800 x 600 resolution
- ☐ Microsoft Mouse or compatible pointing device

- (2) In order to access the CARE II SM from the web, offerors must have internet access and the following minimum web browser specifications:
- ☐ Microsoft Internet Explorer 4.5 (Internet Explorer 5.5 recommended).
  - ☐ Netscape Navigator 4.5 (Netscape Communicator 4.76 recommended).
  - ☐ Browser must support 128-bit encryption for secure transmission of data

### III. WRITTEN PROPOSALS

In addition to the CARE II SM data required by paragraph 1 of this addendum, all offerors must submit written proposal material as described below in the quantities stated:

**VOLUME I** - Executed RFP Documents (Submit Original Documents)

**VOLUME II** - Technical Capability Narratives (Submit 4 Copies)

TAB 1 – Designated Routes and Specialized Customer Requirements

TAB 2 – Non-Designated Routes

TAB 3 – Business Management/Risk Management, including fleet management; Customer Relations/Responsiveness, including Quality Management; and, Communications with Customer to include EDI capability

TAB 4 – Port Coverage, Transit Time and Sailings for Non-Designated SCR Routes

**VOLUME III** - Quality of Past Performance Information (Submit 4 Copies)

**VOLUME IV** - Subcontracting Plan (Submit 4 Copies)

NOTE: Pricing information is not to be included in offeror's written technical submissions. Pricing information is to be provided through CARE II SM as stated above in Section II, paragraph B. Instructions for submitting Volumes I – IV are as follows:

#### A. Executed RFP Documents (VOLUME I)

**All offerors shall submit all documents requiring signature or completion by the offeror. Each offeror shall complete applicable fill-ins and signatures, and submit the original documents listed below. An authorized official of the firm shall sign the offer and all certifications requiring original signature.**

1. Standard Form 1449, including acknowledgment of amendments, if applicable.
2. Clauses 52.212-3, Offeror Representations and Certifications – Commercial Items

#### B. Narratives of Technical Capability (VOLUME II)

All offerors shall be required to submit written narratives for evaluation of technical capability. Narratives must be provided to explain how their proposal will meet all requirements established in the solicitation. For routes/zones for which rates are offered, offerors will provide a narrative for each of the designated route indices at TAB 1 of this volume. Offerors will provide a single consolidated narrative for all non-designated route indices at TAB 2. Each narrative at TAB 1 and TAB 2 will not to exceed seven (7) pages in no smaller than 10-pitch font exclusive of graphs and charts. At TAB 3, one submission of the narratives for Business Management/Risk Management; Customer Relations/Responsiveness; and, Communications with Customer, to include EDI capability are required and will be applicable to both the Designated Routes including the SCR, and Non-Designated Routes. The narrative at TAB 3 will not exceed 10 pages in no smaller than 10-pitch font exclusive of graphs and charts. At TAB 4, the offeror will provide a brief narrative in addition to the narrative submitted for the non-designated routes to specifically address Port

Coverage, Transit Time, and Frequency of Sailings for the non-designated CCR routings. The written technical proposal must demonstrate the offerors understanding of the requirements identified in the General Section of the Request for Proposals as well as the Specialized Customer Services Matrix located at Attachment \_\_\_\_\_. Proposals should address the following topics:

1. Frequency of Sailings - Describe how the frequency of service described in Service Profiles for each route/zone will be maintained within consistent intervals to meet the performance standard prescribed by the contract. Provide an analysis of sailings by service string for each of the designated routes for the most current 90-day period prior to submission of proposals to show the average interval between sailings and the deviation.

2. Transit Time - Present an analysis to show the reliability of service on the designated routes in meeting scheduled arrival dates at OCONUS ports of discharge. Describe any recurring problems with port diversions and transshipment delays and actions taken to minimize future problems. Describe how compliance with Required Delivery Dates, ensuring cargo is lifted to the booked vessel, processing bookings in the quickest possible time, resolving documentation irregularities, maintaining good customer relations and advising of potential service disruptions will be accomplished.

3. Port Coverage - Present an analysis of the benefits of the offeror's existing or planned port coverage in relationship to the General section to include use of alternate ports for breakbulk. Describe how feeder vessels including barges, transshipments and land landbridge arrangements will be used and managed to expand port coverage and the benefits to shippers in minimizing linehaul costs and transit times. Provide information concerning the carrier's policy for establishing cutoffs and obtaining late gates to accommodate special requirements for selected shipments.

4. Communication With Customer, including EDI - Present a description of the offeror's capability to satisfy the mandatory and optional ITV reporting and booking interface requirements expressed in the solicitation. Contractors who do not currently have the capability to provide specific mandatory event reports, or who are not able to provide mandatory event reports at specific ports or points, or who are not capable of providing reports within contract specified timelines, must provide a timeline describing when they will be able to fully meet reporting requirements for mandatory events, and provide a narrative describing how they intend to collect and report this information. Offerors must demonstrate that they have Trading Partner Agreements (TPA) in place, or submit the TPA as part of their offer, to comply with this requirement. Contractors should indicate how they will communicate critical information with MTMC and consignee customers.

5. Business Management/Risk Management System/Approach - Describe the offeror's management system and approach to Risk Management to ensure fulfillment of all contract requirements. The system/approach should address:

(a) The designation of customer service representatives to assist government shippers with day-to-day operational matters.

(b) How contract requirements will be made known throughout the offeror's organization to include subcontractors to ensure operations are executed and management oversight is provided to comply with requirements and booking instructions.

(c) How the offeror will manage the quality of their performance is meeting performance standards, and work proactively with Government shippers to resolve potential problems.

(d) How the offeror will measure and document their organization's fulfillment of contract performance objectives, and provide self-assessment reports to the Contracting Officer for all performance measures.

(e) How the offeror will support the objectives of the Quality Council.

(f) How the offeror will partner with the government to improve business processes and identify areas where cost efficiencies could be realized.

6. Equipment - Present an analysis addressing the offeror's vessel capacity and suitability, and intermodal equipment inventory, quantity and age, and their overall capability to maintain equipment pools, meet space commitments and deliver cargo without loss/damage to meet contract delivery requirements.

### **C. Quality of Past Performance Information (Volume III)**

1. The offeror should provide information that the Government will use to evaluate the quality of the offeror's past performance. The information should be submitted to address all sections of the RFP for which prices are offered.

(a) On-time Delivery - An assessment of contractor's performance to meet requirements of previous contracts with the government

(b) Quality of EDI data - An assessment of contractor's performance to meet the EDI requirements of previous contracts with the government.

(c) Consistency and reliability of service - An assessment of contractor's performance to maintain service per advertised schedules to include ports of call.

(d) Loss of and/or damage to shipments - An assessment of shipments identified by the government as being loss/damaged for prior contracts with an explanation of how timely and completely the claims were resolved.

The offeror will submit a listing of not more than five (5) current or recent (within the previous three (3) calendar years) contracts or and/or customers, public or private for which the offeror has performed services similar in nature to the services described in this solicitation. The offeror should provide the name of the company or Government agency, points of contact and phone numbers for the entities listed. The Government may contact those organizations and individuals to verify information and/or gather additional information. Offerors may identify awards they have received from their commercial customers and professional/trade organizations as evidence of past performance for public and private organizations.

Contractors awarded any CONUS mileage rates must provide proof of "PC\*Miler" license. Upon receipt of this document, the Government will provide the file containing the port to point mileage described in paragraph B.3 (b) of the Rate Rules.

### **D. Subcontracting Plan (Volume IV)**

1. The offerors should note that the requirements of the Small, Small Disadvantaged Woman-Owned Small Business, and HUBZone Subcontracting Plan Clause of FAR 52.219-9 (Oct 00) hereby invoked in this RFP requires the submission of a Subcontracting Plan.

2. Offerors should submit documentation reflecting their small business participation. Offerors that are not considered small businesses as defined by FAR 19.001, are required to submit a Subcontracting Plan with their proposals. The plan should be prepared in accordance with FAR 19 704 Offerors should address the following items in addition to the requirements of FAR 19 704:

(a) Broadening Small Business Vendor Base -Describe efforts undertaken to broaden Small Business, Small Disadvantaged Business and Women-Owned Small Business active vendor base.

(b) Description of Supplies/Services to be Subcontracted - Identify the types of supplies/services planned for subcontracting.

(c) Development of Percentage Goals for Small Business- Please explain efforts you will take to meet the following subcontracting goals established for this solicitation:



- ☐ Small Business.....23%
- ☐ Small Disadvantaged Business.....5%
- ☐ Small Woman-Owned Business.....5%
- ☐ HUBZone Small Business..... 2.5%
- ☐ Veteran-Owned and Service-Disabled.....3%
- ☐ Veteran-Owned Small Businesses .....5%

#### **IV. UNSOLICITED PROPOSALS**

Offers of service not solicited by this RFP will not be considered. In the event it is deemed necessary to solicit additional offers of service at a later date, solicitation may be limited to those carriers

#### **V. DATA, CERTIFICATIONS AND SPECIAL CONTRACT REQUIREMENTS**

1. If any vessels or space offered for service is offered pursuant to a space or slot charter agreement, including those to be filed and approved under sections 4 and 5 of the Shipping Act of 1984, the vessel or space to be utilized will be identified with the applicable agreement.

2. To ensure compliance with the Cargo Preference Act (CPA) of 1904:

The Contracting Officer will obtain all relevant Ocean Common Carrier Service Contract Information (OCCSCI) from the Federal Maritime Commission for the purpose of compliance with the CPA.

#### **VI. REJECTION OF OFFERS**

The Government reserves the right to reject any or all offers in whole or in part.

#### **VII. APPLICABLE TARIFFS**

As specified herein, the offeror must submit with its offer information sufficient to allow proposal evaluators access internet web sites containing all effective commercial tariffs published by the offeror for all trade routes for which service was offered under this solicitation.

## **Addendum to FAR 52.212-2 Evaluation - Commercial Items**

### **I. GENERAL EVALUATION (Applicable to all offers including the General Section and Specialized Customer Requirements)**

A. Contract awards will be made in accordance with the terms of FAR 52.212-2, "Evaluation - Commercial Items" and the provisions contained herein. All rates will be examined for price reasonableness in accordance with FAR Part 15.

B. Proposals submitted in response to this Request for Proposal must demonstrate the offeror's technical capability to provide the services on all route indices for which it offers rates.

C. The Government reserves the right to reject any offer of service on those route indices or route zones (where applicable) where the Government determines that the technical capability to serve the route index or indices as stated in the contractor's offer is less than the carrier's service offered commercially.

D. The Government reserves the right to reject any offer in whole or in part under this RFP that does not comply with the material requirements of this solicitation. Failure to comply with any of the material requirements of this solicitation, including submission of all applicable representations and certifications may be determined to be grounds for the Government to reject offers as technically unacceptable.

E. U.S. Flag Service Jones Act Voluntary Intermodal Sealift Agreement priorities will be in accordance with paragraph II below.

F. The Government may accept some or all rates or services initially offered, without discussion of those rates or services. If negotiations are conducted, they may be limited to certain rates or service specifically identified in writing by the contracting officer to the offerors. Thereafter, offers will be notified of the close of negotiations and the opportunity to submit a final proposal revision (FPR).

### **II. VOLUNTARY INTERMODAL SEALIFT AGREEMENT (VISA) PRIORITIES (READINESS) EVALUATION**

Offers responsive to this solicitation submitted that are determined to have the required technical capability will be grouped into the Voluntary Intermodal Sealift Agreement (VISA) participant categories for each trade lane and SCR. VISA participant categories are the prioritized order for utilization of commercial sealift capacity to meet DoD peacetime requirements. Specifically, the categories of priority of vessel capacity offered to perform these services in order from highest priority to lowest priority are as follows:

A. U.S. Flag vessel capacity operated by a VISA "Participant" that has made a current, minimum commitment of its U.S. Flag vessel capacity to Stages I, II and III of VISA or that has made a current, minimum commitment of its Jones Act capacity (capacity exclusively engaged in the domestic trades) to Stage III of VISA and a current, minimum commitment of the remainder of its U.S. Flag vessel capacity to Stages I, II and III of VISA or, with regard to an offer for a long-term charter to DoD, that has made a current, minimum commitment of its U.S. Flag vessel capacity to Stage III of VISA. The U.S. Flag Vessel Sharing Agreement (VSA) capacity of such a Participant also is grouped in this category of priority.

B. U.S. Flag vessel capacity operated by a VISA "Participant" that has made a current, minimum commitment of its U.S. Flag vessel capacity to Stage III of VISA and the U.S. Flag Vessel Sharing Agreement (VSA) capacity of such a Participant.

C. U. S. Flag vessel capacity operated by a non-Participant.

- D. Combination U.S./foreign flag vessel capacity operated by the kind of "Participant" described in paragraph a above and the combination U.S./foreign flag VSA capacity of such a Participant
- E. Combination U.S./foreign flag vessel capacity operated by the kind of "Participant" described in paragraph b above and the combination U.S./foreign flag VSA capacity of such a Participant
- F. Combination U.S./foreign flag vessel capacity operated by a non-Participant.
- G. U.S. owned or operated foreign flag vessel capacity and VSA capacity of the kind of "Participant" described in paragraph (a) above.
- H. U.S. owned or operated foreign flag vessel capacity and VSA capacity of the kind of "Participant" described in paragraph (b) above.
- I. U.S. owned or operated foreign flag vessel capacity or VSA capacity of a non-Participant
- J. Foreign-owned or operated foreign flag vessel capacity of a non-Participant.

Other parts of the general evaluation process may begin with offers, if any, in the highest category of priority and proceed to the next lower priority category only as necessary to make awards that meet the government's legal obligations under this solicitation and that fulfill the Government's anticipated transportation requirements.

### **III. TECHNICAL EVALUATION CRITERIA**

The following technical evaluation factors are listed in decreasing order of importance. Sub-factors are in decreasing order of importance unless otherwise noted within each factor.

#### **(1) Service Capability**

- A. Frequency of Sailing – as specified
- B. Transit time – as specified
- C. Equipment
  - (i.) Vessel Capacity and Suitability
  - (ii.) Intermodal Equipment Inventory Size and Age
- D. EDI Capability
- E. Management, i.e. Systems/Approach

#### **(2) Quality of Past Performance**

- A. Quality of Service
- B. Schedule
- C. Business Relations
- D. Management of Key Personnel

#### **(3) Subcontracting Plan**

#### **(4) Price Reasonableness**

#### **IV. BEST VALUE EVALUATION FACTORS APPLICABLE TO THE GENERAL SECTION DESIGNATED ROUTES AND SPECIALIZED CUSTOMER REQUIREMENTS SECTION**

The following information is applicable to the solicitation sections evaluated using a best value analysis.

A. Relative Order of Importance Terminology. An evaluation of all offers will be made in accordance with the criteria set forth below. Evaluation criteria consist of factors and sub-factors. In order to provide the offeror with an understanding of the significance assigned by the Government, the criteria are assigned a relative order of importance. The following terminology is used:

1. Significantly More Important. The criterion is substantially more important than another criterion. Criterion is given far more consideration than another criterion.

2. More Important. The criterion is greater in value than another criterion, but not as much as a significantly more important criterion. Criterion is given more consideration than another criterion.

3. Equal in Relative Importance. The criterion is nearly the same in value as another criterion; any difference is very slight.

B. The Government will award a contract(s) resulting from the Best Value portion of this solicitation to the responsible offeror(s) whose offer(s), conforming to the solicitation, will be most advantageous to the Government, price and other factors considered.

C. Evaluation Factors Applicable to the General Section Designated Routes and Specialized Customer Requirements Section

1. Awards will be made to the proposal(s) determined to be the most beneficial to the Government using a tradeoff (i.e., best value) process, with appropriate consideration given to the that following four (4) evaluation factors and their sub-factors. For each non-price evaluation factor, further information on specific matters to be considered can be obtained by reference to corresponding paragraphs in the Instructions to Offerors.

(a) **FACTOR** - Service Capability

##### **SUBFACTORS**

(i) Frequency of Sailing

Frequency of sailings as specified in each SCR by route/zone.

(ii) Transit Time

Transit time as specified in each SCR by route/zone.

(iii) Port Coverage

Availability of service from United States ports with either direct vessel calls or use of alternate ports for breakbulk to efficiently meet projected shipping requirements while minimizing the time between origin cut-off and vessel sailings.

(iv) Equipment

Sufficient equipment to meet all projected movement requirements and to adequately safeguard and protect cargo from loss and damage.

(v) Customer Communication/EDI Capability

Offeror's capability to communicate with the primary and secondary customers and to provide all the required EDI transactions/event reports as described in the solicitation, to include the optional events for EDI 315 status reports.

(vi) Management/Risk Management

Management of movements to respond to problems and queries on a timely basis by personnel knowledgeable with DOD business, provide advice to improve service, proactively manage DOD shipments to identify potential problems and to provide performance feedback.

(b) **FACTOR** - Quality of Past Performance

SUBFACTORS

(i) On-Time Delivery

The carrier's performance in meeting the delivery standards of previously held customer service/commercial contracts for time definite standards, as well as standards for line-haul to the port of embarkation, ocean transit from POE to POD and on-carriage from POD to final destination.

(ii) Quality of EDI

The quality and timeliness of EDI transactions as required by previous contracts.

(iii) Consistent, reliable service

Frequency and severity of each documented failure, and the impact on the shipper of such failures. Such failures may include but are not limited to, failure to spot empty containers, failure to lift cargo as book, not meeting vessel schedules or port rotations and not providing required reports to the Government.

(iv) Loss and damage

The percentage of cargo volume lost or damaged relative to amount of cargo shipped with the carrier and the timeliness of claims resolution.

(c) **FACTOR** - Subcontracting Plan

SUBFACTORS

(i) Broadening Small business Vendor Base

Efforts undertaken to broaden Small business, Small Disadvantaged Business and Women-Owned Small Business active vendor base.

Description of efforts to provide small businesses an equitable opportunity to compete for subcontracts.

(ii) Description of Supplies/Services to be Subcontracted The identification of the types of supplies and services planned for subcontracting.

(iii) Development of Percentage Goals for Small Business

The Government anticipates a small business goal of 10; a small disadvantaged goal of 5; and a women-owned business goal of 2.

(d) **FACTOR**- Price - See Section V.

## **2. Relative Order of Importance of Sub-Factors within Factors:**

a- Service Capability - Service Capability sub-factors (i), (ii) and (iii) are equal in importance and each is individually more important than sub-factor (iv). Sub-factor (iv) is more important than sub-factors (v) and (vi), which are equal in importance.

b. Quality of Past Performance-Quality of Past Performance sub-factors (i) and (ii) are equal in importance and each is individually more important than sub-factor (iii). Sub-factor (iii) is more important than sub-factor (iv).

c. Subcontracting Plan - Subcontracting Plan Sub-factors (i), (ii), and (iii) are equal in importance.

**3. Relative Order of Importance of Factors** - Of the four evaluation factors, the Service Capability and Quality of Past Performance are equal in relative importance. Individually, Service Capability and Quality of Past Performance are considered more important than the Subcontracting Plan Collectively the non-price factors are significantly more important than the price factor.

**4. Award (General Section Designated Routes)** - Multiple awards will be made on the designated routes in the General Section. The guarantee of cargo minimums for each route/zone will be allocated on the route. Best value will be evaluated for each subCLIN within each route/zone. Each subCLIN will be annotated to show the ranking relative to other offerors, as BV1, BV2, etc. The BV1 carrier will be awarded the portion of the cargo minimum associated with the CLIN. In all best value trade-off analysis awards even the lowest rated offeror will be awarded sufficient cargo to ensure full compliance with FAR 16.504(a)(2), i.e., more than nominal quantities and economically viable revenue based to support any accepted service.

**5. Awards (Specialized Customer Service Requirements Section)** - Multiple awards may be made for SCR rates by route/zone index. In all best value trade-off analysis awards, the lowest rated acceptable offeror will be awarded sufficient cargo to ensure full compliance with FAR 16 504(a)(2) i.e more than nominal quantities and economically viable revenue based to support any accepted service " All carriers receiving an award for a contract line item as the BV1 carrier will receive a minimum guarantee of cargo for the route/zone. The minimum for each carrier is a pro rata share of the total minimum guarantee of the route/zone for the SCR section based upon each carrier's percentage share of the forecasted volume which is an aggregate of the subCLINs for which they were determined to be the BV1 carrier. Carriers will only receive a share of the minimum guarantee as the BV2 carrier when their BV1 share of the minimum cargo does not comply with FAR 16.504(a)(2). Minimum cargo guarantees based upon subCLINs awarded to a contractor on a trade route/zone will be awarded as an overall minimum cargo guarantee under that trade route/zone contract.

## **V. PRICE**

**A. Contract Price Evaluation** - Price evaluation for all proposed rates will be performed in accordance with FAR 15.404-1, utilizing the Carrier Analysis Rate Evaluation Service Module (CARE II SM).

A rate will not be considered for award should the Procuring Contracting Officer (PCO) determine that the rate exceeds charges to private persons for carriage of like goods, pursuant to the Cargo Preference Act of 1904 (or other law or regulation).

The Contracting Officer will not consider an offer to be fair and reasonable, if an offeror's Best Value offer contains rates higher than the highest commercial service contract rate; or that are clearly and substantially in excess of the rates stated in comparable commercial service contracts to which the offeror is party, for the same trades and similar services.

52.212-4 CONTRACT TERMS AND CONDITIONS-- COMMERCIAL ITEMS  
(MAY 2001)

(a) Inspection/Acceptance. The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The Government must exercise its post-acceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) Assignment. The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the Government wide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

(c) Changes. Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) Disputes. This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) Definitions. The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) Excusable delays. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the CO in writing as soon as it is reasonably possible after the commencement or any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the CO of the cessation of such occurrence.

(g) Invoice. The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized,) to the address designated in the contract to receive invoices. An invoice must include:

- (1) Name and address of the Contractor;
- (2) Invoice date;
- (3) Contract number, contract line item number and, if applicable, the order number;
- (4) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (5) Shipping number and date of shipment including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (6) Terms of any prompt payment discount offered;
- (7) Name and address of official to whom payment is to be sent; and
- (8) Name, title, and phone number of person to be notified in event of defective invoice.

Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) Circular A-125, Prompt Payment. Contractors are encouraged to assign an identification number to each invoice.

(h) Patent indemnity. The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) Payment. Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) Circular A-125, Prompt Payment. If the Government makes payment by Electronic Funds Transfer (EFT), see 52.212-5(b) for the appropriate EFT clause. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(j) Risk of loss. Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:



(1) Delivery of the supplies to a Carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) Taxes. The contract price includes all applicable Federal, State, and local taxes and duties.

(l) Termination for the Government's convenience. The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) Termination for cause. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) Title. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) Warranty. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) Limitation of liability. Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) Other compliances. The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) Compliance with laws unique to Government contracts. The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 327, et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.

(s) Order of precedence. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order: (1) the schedule of supplies/services; (2) the Assignments, Disputes, Payments, Invoice, Other Compliances, and Compliance with Laws Unique to Government Contracts paragraphs of this clause; (3) the clause at 52.212-5; (4) addenda to this solicitation or contract, including any license agreements for computer software; (5) solicitation provisions if this is a solicitation; (6) other paragraphs of this clause; (7) the Standard Form 1449; (8) other documents, exhibits, and attachments; and (9) the specification.

## **5.0 ADDENDUM TO FAR 52.212-4**

### **COMMERCIAL TERMS AND CONDITIONS – COMMERCIAL ITEMS**

Contract Clause FAR 52.212-4, Contract Terms and Conditions – Commercial Items, incorporated in full text is hereby tailored to reflect the following changes to Paragraph (c), Changes, in accordance to FAR 12.302(a):

(c) Changes. Changes in the terms and conditions of this contract may be made only by written agreement of the parties except for items/provisions delineated in the contract as within the authority of the CO. Where the Government requests a change requiring written agreement of the parties, the parties agree to undertake best efforts to affect the requested change. Changes in the terms and conditions of a delivery/task/shipping order issued under the contract may be made in writing on a unilateral basis by the Government.

- (1) If any such change causes an increase or decrease in the cost of, or the time required for performance of any part of the work under this contract, whether or not changed by the order, the CO must make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.
- (2) The Contractor must assert its right to an adjustment under this clause within thirty (30) days from the date of the receipt of the written order.
- (3) If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the CO shall have the right to prescribe the manner of disposition of the property.
- (4) Failure to agree to any adjustment shall be a dispute.

(End of clause)

52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (MAY 2001)

(a) The Contractor shall comply with the following FAR clauses, which are incorporated in this contract by reference, to implement provisions of law or executive orders applicable to acquisitions of commercial items:

(1) 52.222-3, Convict Labor (E.O. 11755).

(2) 52.233-3, Protest after Award (31 U.S.C. 3553).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the CO has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items or components:

(CO shall check as appropriate.)

☒ (1) 52.203-6, Restrictions on Subcontractor Sales to the Government, with Alternate I (41 U.S.C. 253g and 10 U.S.C. 2402).

☐ (2) 52.219-3, Notice of HUBZone Small Business Set-Aside (Jan 1999).

☐ (3) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jan 1999) (if the offeror elects to waive the preference, it shall so indicate in its offer).

☐ (4) (i) 52.219-5, Very Small Business Set-Aside (Pub. L. 103-403, section 304, Small Business Reauthorization and Amendments Act of 1994).

☐ (ii) Alternate I to 52.219-5.

☐ (iii) Alternate II to 52.219-5.

☒ (5) 52.219-8, Utilization of Small Business Concerns (15 U.S.C. 637 (d)(2) and (3)).

☒ (6) 52.219-9, Small Business Subcontracting Plan (15 U.S.C. 637 (d)(4)).

☐ (7) 52.219-14, Limitations on Subcontracting (15 U.S.C. 637(a)(14)).

☐ (8)(i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Concerns (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).

\_\_\_(ii) Alternate I of 52.219-23.

\_X\_(9) 52.219-25, Small Disadvantaged Business Participation Program--Disadvantaged Status and Reporting (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

\_X\_(10) 52.219-26, Small Disadvantaged Business Participation Program--Incentive Subcontracting (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

\_X\_(11) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).

\_X\_(12) 52.222-26, Equal Opportunity (E.O. 11246).

\_X\_(13) 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 4212).

\_X\_(14) 52.222-36, Affirmative Action for Workers with Disabilities (29 U.S.C. 793).

\_X\_(15) 52.222-37, Employment Reports on Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 4212).

\_\_\_(16) 52.222-19, Child Labor--Cooperation with Authorities and Remedies (E.O. 13126).

\_\_\_(17)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (42 U.S.C. 6962(c)(3)(A)(ii)).

\_\_\_(ii) Alternate I of 52.223-9 (42 U.S.C. 6962(i)(2)(C)).

\_X\_(18) 52.225-1, Buy American Act--Balance of Payments Program--Supplies (41 U.S.C. 10a-10d).

\_X\_(19)(i) 52.225-3, Buy American Act--North American Free Trade Agreement--Israeli Trade Act--Balance of Payments Program (41 U.S.C. 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note).

\_\_\_(ii) Alternate I of 52.225-3.

\_\_\_(iii) Alternate II of 52.225-3.

\_\_\_(20) 52.225-5, Trade Agreements (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

X   (21) 52.225-13, Restriction on Certain Foreign Purchases (E.O. 12722, 12724, 13059, 13067, 13121, and 13129).

       (22) 52.225-15, Sanctioned European Union Country End Products (E.O. 12849).

       (23) 52.225-16, Sanctioned European Union Country Services (E.O.12849).

  X   (24) 52.232-33, Payment by Electronic Funds Transfer--Central Contractor Registration (31 U.S.C. 3332).

       (25) 52.232-34, Payment by Electronic Funds Transfer--Other than Central Contractor Registration (31 U.S.C. 3332).

       (26) 52.232-36, Payment by Third Party (31 U.S.C. 3332).

       (27) 52.239-1, Privacy or Security Safeguards (5 U.S.C. 552a).

  X   (28) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (46 U.S.C. 1241).

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, which the CO has indicated as being incorporated in this contract by reference to implement provisions of law or executive orders applicable to acquisitions of commercial items or components:

(CO check as appropriate.)

       (1) 52.222-41, Service Contract Act of 1965, As amended (41 U.S.C. 351, et. seq.).

       (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (29 U.S.C. 206 and 41 U.S.C. 351, et. seq.).

       (3) 52.222-43, Fair Labor Standards Act and Service Contract Act -- Price Adjustment (Multiple Year and Option Contracts) (29 U.S.C.206 and 41 U.S.C. 351, et seq.).

       (4) 52.222-44, Fair Labor Standards Act and Service Contract Act - Price Adjustment (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

       (5) 52.222-47, SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreement (CBA) (41 U.S.C. 351, et seq.).

(d) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid,

is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records--Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c) or (d) of this clause, the Contractor is not required to include any FAR clause, other than those listed below (and as may be required by an addenda to this paragraph to establish the reasonableness of prices under Part 15), in a subcontract for commercial items or commercial components.

(1) 52.222-26, Equal Opportunity (E.O. 11246);

(2) 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 2012(a));

(3) 52.222-36, Affirmative Action for Workers with Disabilities (29 U.S.C. 793);

(4) 52.247-64, Preference for Privately-Owned U.S.- Flag Commercial Vessels (46 U.S.C. 1241)(flow down not required for subcontracts awarded beginning May 1, 1996), and

(5) 52.222-41, Service Contract Act of 1965, As Amended (41 U.S.C. 351, et seq.).

(End of clause)

52.216-19 ORDER LIMITATIONS. (OCT 1995)

(a) Minimum order. When the Government requires supplies or services covered by this

contract in an amount of less than **1 FEU or 1 MT** (insert dollar figure or quantity), the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(b) Maximum order. The Contractor is not obligated to honor:

(1) Any order for a single item in excess of **the capacity of the Carriers vessel** (insert dollar figure or quantity);

(2) Any order for a combination of items in excess of **the capacity of the Carriers vessel** (insert dollar figure or quantity); or

(3) A series of orders from the same ordering office within **3** days that together call for quantities exceeding the limitation in subparagraph (1) or (2) above.

(c) If this is a requirements contract (i.e., includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) above.

(d) Notwithstanding paragraphs (b) and (c) above, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within **3** days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

(End of clause)

#### 52.216-22 INDEFINITE QUANTITY. (OCT 1995)

(a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum". The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum".

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after 31 Jul 2004.

(End of clause)

#### 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)

The Government may require continued performance of any services within the limits and at the rates specified in contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed six (6) months. The CO may exercise the option by written notice to the Contractor within 30 days of the expiration of the contract. (insert the period of time within which the CO may exercise the option).

(End of clause)

#### 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)

(a) The Government may extend the term of this contract by written notice to the Contractor within 30 days (insert the period of time within which the CO may exercise the option); provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 120 days (60 days unless a different number of days is inserted) before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 3 Years.

(End of clause)

#### 52.232-19 AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR (APR 1984)

Funds are not presently available for performance under this contract beyond 31 Jul 2004. The Government's obligation for performance of this contract beyond that date is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise for performance under this contract beyond 31 Jul 2004, until funds are



made available to the CO for performance and until the Contractor receives notice of availability, to be confirmed in writing by the CO.

252.212-7001 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (DEC 2000)

(a) The Contractor agrees to comply with any clause that is checked on the following list of DFARS clauses which, if checked, is included in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items or components.

☐ 252.205-7000 Provision of Information to Cooperative Agreement Holders (10 U.S.C. 2416).

☐ 252.206-7000 Domestic Source Restriction (10 U.S.C. 2304)

☒ 252.219-7003 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD Contracts) (15 U.S.C. 637).

☐ 252.225-7001 Buy American Act and Balance of Payment Program (41 U.S.C. 10a-10d, E.O. 10582).

☐ 252.225-7007 Buy American Act--Trade Agreements--Balance of Payments Program ☐ Alternate I (41 U.S.C. 10a-10d, 19 U.S.C. 2501-2518, and 19 U.S.C. 3301 note).

☐ 252.225-7012 Preference for Certain Domestic Commodities.

☐ 252.225-7014 Preference for Domestic Specialty Metals (10 U.S.C. 2241 note).

☐ 252.225-7015 Preference for Domestic Hand or Measuring Tools (10 U.S.C. 2241 note).

☐ 252.225-7016 Restriction on Acquisition of Ball and Roller Bearings (☐ Alternate I) (Section 8064 of Pub. L. 106-259).

☐ 252.225-7021 Trade Agreements ☐ Alternate I (19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note).

☐ 252.225-7027 Restriction on Contingent Fees for Foreign Military Sales (22 U.S.C. 2779).

☐ 252.225-7028 Exclusionary Policies and Practices of Foreign Governments (22 U.S.C. 2755).

☐ 252.225-7029 Preference for United States or Canadian Air Circuit Breakers (10 U.S.C. 2534(a)(3)).

☐ 252.225-7036 Buy American Act--North American Free Trade Agreement Implementation Act--Balance of Payment Program (☐ Alternate I) (41 U.S.C. 10a-10d and 19 U.S.C. 3301 note).

☒ 252.227-7015 Technical Data--Commercial Items (10 U.S.C. 2320).

☒ 252.227-7037 Validation of Restrictive Markings on Technical Data (10 U.S.C. 2321).

☒ 252.243-7002 Certification of Requests for Equitable Adjustment (10 U.S.C. 2410).

☒ 252.247-7023 Transportation of Supplies by Sea (☐ Alternate I)  
(☐ Alternate II) (10 U.S.C. 2631).  
☒ 252.247-7024 Notification of Transportation of Supplies by Sea (10 U.S.C.  
2631).

(b) In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders--Commercial Items clause of this contract (Federal Acquisition Regulation 52.212-5), the Contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

252.225-7014 Preference for Domestic Specialty Metals, Alternate I (10 U.S.C. 2241 note).

252.247-7023 Transportation of Supplies by Sea (10 U.S.C. 2631). 252.247-7024  
Notification of Transportation of Supplies by Sea (10 U.S.C. 2631).

252.247-7024 Notification of Transportation of Supplies by Sea (10 U.S.C. 2631)

(End of clause)

## **CUSTOMER SERVICE SECTIONS CONTRACT ANNEXES (CSSCA) (ALASKA)**

### **A. ARMY AND AIR FORCE EXCHANGE SERVICE (AAFES)**

1. Contracting Parties. The parties to this CSSCA are, on the first part, The United States Government and the Carrier (to whom the cargo will be awarded). The entitled

Government affiliate, AAFES (the shipper) will receive all services for cargo booked under this CSSCA.

2. Term of CSSCA.

2.1 The terms and conditions of this CSSCA are effective beginning 0001 hours local time 1 August 2003 and continuing up to 2400 hours 31 July 2004, after which the CSSCA shall expire unless extended under FAR PART 52.217-8, Option to Extend Services. This CSSCA shall provide for the transportation of container cargo booked under this CSSCA and received by the carrier or its agent for sailing from the vessel loading port scheduled on or after 1 August 2003, and on or before 31 July 2004.

2.2 Provisions of the Regional Domestic Contract (RDC) are incorporated herein by reference. To the extent that any provisions of the RDC are inconsistent with the terms and conditions of this CSSCA, this CSSCA shall take precedence.

3. Origin and Destination Points and Commodities Covered by the CSSCA. This CSSCA covers the transportation of commodities identified in Attachment B, from San Joaquin Group (Door City Group) to Anchorage commercial zone, Eielson AFB, Fairbanks, and Ft. Greely.

4. Shipper (Government) Minimum Cargo Commitment (MCC). The shipper undertakes to ship a minimum quantity of 354 dry forty-foot equivalent units (FEUs), during the term of this Customer Service Section. If the shipper meets its cargo commitment prior to the expiration of this contract, the shipper may ship up to an additional 1062 FEUs, for a maximum of 1416 FEUs, under the same rates, terms and conditions. For purposes of this contract, a shipment of cargo in a container of forty (40) foot length or longer shall be counted as one (1) FEU and a shipment of cargo in a container of twenty (20) foot length shall be counted as one-half (.5)FEU. In the event the carrier selected for this section is unable to transport the minimum volume guaranteed, the Administrative Contracting Officer reserves the right to make other arrangements to meet such requirements.

5. Sailing Frequency. The Carrier shall provide regular weekly U.S. Flag Jones Act sailing, not to exceed 5 working days from Puget Sound to points in Alaska.

6. Carrier Rate Schedule and Service Commitments.

6.1 The Carrier undertakes to guarantee the liner term port/port and through service rates set forth in the Schedule of rates for all cargo shipped pursuant thereto during the term of this CSSCA.

6.2 The Carrier's total transit time from Puget Sound to points in Alaska shall not exceed five (5) working days (excluding Saturday, Sunday, and holidays).

- 6.3 The Carrier shall provide space for 9 FEUs of dry containers per week, and space to accommodate up to an additional 6 FEUs of dry containers for the same week when an 8 day advance notice is received from the Shipper.
- 6.4 The Ordering Activity retains the right to cancel the shipment of any booked containers provided that subject containers are canceled no less than five calendar days prior to vessel sailing from load port.
- 6.5 The Government may book container(s) over and above the guaranteed space requirements from any CONUS port within 7 days of the vessel sailing. Such bookings will be lifted on a "space available basis" and the container(s) will be counted towards the cargo commitment.
- 6.6 The Carrier shall provide the Shipper with sufficient and suitable containers and chassis, at origin locations, that will permit the Shipper to meet the volume commitment at least 6 days prior to the Carrier's scheduled sailing.
- 6.7 The Carrier shall provide equipment in compliance with ISO standards, and guarantee that such equipment will be deemed safe and satisfactory by the Ordering Officer (OO) for the transport of the shipment. The Carrier shall bear any and all costs incurred from rejection and/or repositioning of equipment that the OO determines to be unacceptable.
- 6.8 The total amount of free time in Alaska allowed for each dry container will be seven (7) calendar days. When the seventh (7) day falls on a Saturday, Sunday or holiday, the allowed free time will be extended to the next working day.
- 6.9 The Government will book containers with no less than a 7 day notice prior to scheduled sailing.
- 6.10 The Government will deliver containers in time to meet the locally advertised vessel cut-offs at each origin. The Carrier shall provide the Shipper (OO) all local advertised vessel cut-offs within 7 days after contract award.
- 6.11 The Carrier shall notify the Contracting Officer Representative (COR) in no less than 24 hours when it is determined by the Carrier that container(s) will not be lifted IAW the scheduled booked sailing. The COR will notify the consignee upon such notice to allow consignee time to redirect priority of cargo lift. Container(s) "shut out" from scheduled sailing shall be lifted for the next subsequent weekly sailing and shall receive priority on carriage from port of discharge (POD) to consignee to ensure RDD integrity.
- 6.12 Lift data on the Government manifest and/or data provided by the Electronically Transmitted Container Data process will be used to compute the number of

containers lifted. In the event there is a conflict between the electronic data and the Government's manifest, then the Government's manifest controls.

6.13 The Carrier shall notify the Shipper immediately upon determination by the Carrier that container(s) will not be able to be lifted or were not lifted in accordance with the scheduled booked sailing. The Shipper shall redirect priority of cargo lift as appropriate, including requiring the Carrier to arrange movement on the next available U.S. flag vessel, in order to ensure the integrity of the cargo's originally prescribed transit time (as defined in 6.2).

6.13.1 Should the Shipper elect to have the Carrier move the container(s) on the next available U.S. flag vessel, the Carrier is not relieved of its contractual responsibilities for delivery of such container(s) including the required transit time as originally booked. The Carrier shall employ whatever means is operationally within its control, at no additional cost to the Government, to accomplish meeting the requirements of such cargo. Such container(s) will be counted toward the minimum cargo commitment of this CSSCA.

6.13.2 If the Shipper elects to roll or advance a container, transit time of the affected container shall be calculated on the basis of the vessel to which the container is rolled or advanced.

6.14 During the term of this CSSCA the Carrier may be required to transport hazardous materials as provided for in Attachment A. The OO shall provide the Carrier appropriate hazardous cargo information (i.e. class, flashpoint, UN number) prior to loading of container on the vessel.

6.15 The carrier shall establish and maintain a pool of 20 – 40 foot empty dry containers at AAFES West Coast Distribution Center within (7) days after contract award. In the event the carrier does not maintain the container pool in accordance with the provision of this section, the carrier shall be assessed container detention charges as set forth in 3.21.1.1 for each container per day until the proper pool level is obtained.

7. The carrier shall provide MTMC and AAFES automated ANSI X 12 standard, electronically transmitted container data. Transmissions shall be in the format described at paragraph 3.18 and sent to AAFES Headquarters, 3911 S. Walton Walker Blvd, Dallas, TX 75236-1598 and the MTMC Booking Office at the Deployment Support Command, Fort Eustis, VA. Liquidated damages as set forth at paragraph 9.6 will be assessed for failure to provide the necessary data.

8. Carrier Payment- See paragraph 2.7

9. Carrier Submission of Vessel Schedules- See paragraph 3.8

10. Required Delivery Date- See paragraph 3.7.

## 11. Government Non-Performance

11.1 Should the Shipper for any cause other than Force Majeure not meet the minimum cargo commitment stated in paragraph 4 for any stipulated contract period, or any reduced level thereof occasioned by operation of any provision of this CSSCA, it shall be liable to the Carrier for liquidated damages. The parties expressly agree and stipulate that the measure of such liquidated damages shall be, for each container (FEU) of default, the sum of two hundred fifty (250)dollars and that no further liability shall be incurred by the Shipper for such cause.

11.2 If the shipper fails to cancel a booking or the container(s) is not available for lift on board the scheduled vessel sailing through no fault of the carrier, it shall be designated as a container “no show.” The shipper shall be liable to the carrier for liquidated damages for no shows. Any advances authorized by the shipper or inadvertently made by the carrier shall be used to reduce the shipper liability for the number of “no shows” for that vessel voyage. Any container(s) advanced without authority from the shipper/COR must be held at the carrier’s expense at the port of discharge until the arrival of the scheduled vessel for which the container(s) was booked, unless earlier delivery is authorized by the shipper. The parties expressly agree and stipulate that the measure of liquidated damage for each “no show” (except as offset by cargo advances as described above) will be the sum of two hundred and fifty dollars (\$250) for each container, and that no further liability shall be incurred by the shipper for such cause.

## **CUSTOMER SERVICE SECTIONS CONTRACT ANNEXES (CSSCA) (Puerto Rico)**

### **B. ARMY AND AIR FORCE EXCHANGE SERVICE (AAFES)**

1. Contracting Parties. The parties to this CSSCA are, on the first part, The United States Government and the Carrier (to whom the cargo will be awarded). The entitled Government affiliate, AAFES (the shipper) will receive all services for cargo booked under this CSSCA.
2. Term of CSSCA
  - 2.1 The terms and conditions of this CSSCAA are effective beginning 0001 hours local time 1 August 2003 and continuing up to 2400 hours 31 July 2004, after which the CSSCA shall expire unless extended under FAR PART 52.217-8, Option to Extend Services. This CSSCA shall provide for the transportation of container cargo booked under this CSSCA and received by the carrier or its agent for sailings from the vessel loading port scheduled on or after 1 August 2003, and on or before 31 July 2004.
  - 2.2 Provisions of the Regional Domestic Contract (RDC)(Puerto Rico) are incorporated herein by reference. To the extent that any provisions of the RDC are inconsistent with the terms and conditions of this CSSCA, this CSSCA shall take precedence.
3. Origin and Destination Points and Commodities Covered by this CSSCA. This CSSCA covers the transportation of commodities identified in Attachment B, from United States origin points identified in Attachment A, to San Juan, Puerto Rico.
4. Shipper (Government) Minimum Cargo Commitment (MCC). The shipper undertakes to ship a minimum quantity of 266 dry forty-foot equivalent units (FEUs), during the term of this Customer Service Section. If the shipper meets its cargo commitment prior to the expiration of this contract, the shipper may ship up to an additional 798 FEUs, for a maximum of 1064 FEUs, under the same rates, terms and conditions. For purposes of this contract, a shipment of cargo in a container of forty (40) foot length or longer shall be counted as one (1) FEU and a shipment of cargo in a container of twenty (20) foot length shall be counted as one-half (.5) FEU. In the event the carrier selected for this section is unable to transport the minimum volume guaranteed, the Administrative Contracting Officer reserves the right to make other arrangements to meet such requirements.
5. Sailing Frequency. The Carrier shall provide regular weekly U.S. Flag Jones Act service from CONUS ports to San Juan, Puerto Rico.

6. Carrier Rate Schedule and Service Commitments.

6.1 The Carrier undertakes to guarantee the liner term port/port and through service rates set forth in the Schedule of rates for all cargo shipped pursuant thereto during the term of this CSSCA.

6.2 The Carrier's total transit time between U.S. origin points and San Juan, Puerto Rico shall not exceed 6 days.

6.3 The Carrier shall provide space for nine (9) FEUs of dry containers per week, and space to accommodate up to an additional six (6) FEUs of dry containers for the same week when an 8 day advance notice is received from the Shipper.

6.4 The Ordering Activity retains the right to cancel the shipment of any booked containers provided that subject containers are canceled no less than five calendar days prior to vessel sailing from load port.

6.4.1 The Government may book container(s) over and above the guaranteed space requirements from any CONUS port within 7 days of the vessel sailing. Such bookings will be lifted on a "space available basis" and the container(s) will be counted towards the cargo commitment.

6.5 The Carrier shall provide the Shipper with sufficient and suitable containers and chassis, at origin locations, that will permit the Shipper to meet the volume commitment at least 6 days prior to the Carrier's scheduled sailing.

6.6 The Carrier shall provide equipment in compliance with ISO standards, and guarantee that such equipment will be deemed safe and satisfactory by the Ordering Officer (OO) for the transport of the shipment. The Carrier shall bear any and all costs incurred from rejection and/or repositioning of equipment that the OO determines to be unacceptable.

6.7 The total amount of free time in Puerto Rico allowed for each dry container will be ten (10) calendar days. When the tenth (10) day falls on a Saturday, Sunday or holiday, the allowed free time will be extended to the next working day.

6.8 The Government will book containers with no less than a 7 day notice prior to scheduled sailing.

6.9 The Government will deliver containers in time to meet the locally advertised vessel cut-offs at each origin. The Carrier shall provide the Shipper (OO) all local advertised vessel cut-offs within 7 days after contract award.

6.10 The Carrier shall notify the Contracting Officer Representative (COR) in no less than 24 hours when it is determined by the Carrier that container(s) will not be lifted



IAW the scheduled booked sailing. The COR will notify the consignee upon such notice to allow consignee time to redirect priority of cargo lift. Container(s) "shut out" from scheduled sailings shall be lifted for the next subsequent weekly sailing and shall receive priority on carriage from port of discharge (POD) to consignee to ensure RDD integrity.

- 6.11 Lift data on the Government manifest and/or data provided by the Electronically Transmitted Container Data process will be used to compute the number of containers lifted. In the event there is a conflict between the electronic data and the Government's manifest, then the Government's manifest controls.
- 6.12 The Carrier shall notify the Shipper immediately upon determination by the Carrier that container(s) will not be able to be lifted or were not lifted in accordance with the scheduled booked sailing. The Shipper shall redirect priority of cargo lift as appropriate, including requiring the Carrier to arrange movement on the next available U.S. flag vessel, in order to ensure the integrity of the cargo's originally prescribed transit time (as defined in 6.2).
  - 6.12.1 Should the Shipper elect to have the Carrier move the container(s) on the next available U.S. flag vessel, the Carrier is not relieved of its contractual responsibilities for delivery of such container(s) including the required transit time as originally booked. The Carrier shall employ whatever means is operationally within its control, at no additional cost to the Government, to accomplish meeting the requirements of such cargo. Such container(s) will be counted toward the minimum cargo commitment of this CSSCA.
  - 6.12.2 If the Shipper elects to roll or advance a container, transit time of the affected container shall be calculated on the basis of the vessel to which the container is rolled or advanced.
- 6.13 During the term of this CSSCA the Carrier may be required to transport hazardous materials as provided for in Attachment B. The OO shall provide the Carrier appropriate hazardous cargo information (i.e. class, flashpoint, UN number) prior to loading of container on the vessel.
- 6.14 The Carrier shall establish and maintain a weekly pool of 15- 40 foot and 5 - 20 foot empty dry containers at AAFES Atlanta Distribution Center within seven (7) days of contract award. In the event the carrier does not maintain the container pool in accordance with the provision of this section, the carrier shall be assessed container detention charges as set forth in 3.21.1.1 for each container per day until the proper pool level is obtained.
- 7 The carrier shall provide MTMC and AAFES automated ANSI X 12 standard, electronically transmitted container data. Transmissions shall be in the format described at paragraph 3.18 and sent to AAFES Headquarters, 3911 S. Walton Walker Blvd, Dallas, TX 75236-1598 and the MTMC Booking Office at the

Deployment Support Command, Fort Eustis, VA. Liquidated damages as set forth at section H-6 will be assessed for failure to provide the necessary data.

8 Carrier Payment- See Paragraph 2.7

9 Carrier Submission of Vessel Schedules- See Paragraph 3.8

10 Required Delivery Date- See paragraph 3.7.11 Government Non-Performance

11. Government Non-Performance

11.1 Should the Shipper for any cause other than Force Majeure not meet the minimum cargo commitment stated in paragraph 4.1 for any stipulated contract period, or any reduced level thereof occasioned by operation of any provision of this CSSCA, it shall be liable to the Carrier for liquidated damages. The parties expressly agree and stipulate that the measure of such liquidated damages shall be, for each container (FEU) of default, the sum of two hundred fifty (\$250) dollars and that no further liability shall be incurred by the Shipper for such cause.

11.2 If the shipper fails to cancel a booking or the container(s) is not available vessel sailing through no fault of the carrier, it shall be designated as a container "no show." The shipper shall be liable to the carrier for liquidated damages for no shows. Any advances authorized by the shipper or inadvertently made by the carrier shall be used to reduce the shipper liability for the number of "no shows" for that vessel voyage. Any container(s) advanced without authority from the shipper/COR must be held at the carrier's expense at the port of discharge until the arrival of the scheduled vessel for which the container(s) was booked, unless earlier delivery is authorized by the shipper. The parties expressly agree and stipulate that the measure of liquidated damage for each "no show" (except as offset by cargo advances as described above) will be the sum of two hundred and fifty dollars (\$250) for each container, and that no further liability shall be incurred by the shipper for such cause.

## ATTACHMENT A

CONUS ORIGIN POINTS COVERED BY THIS CSSCA for **Puerto Rico**

Albany, Ga.  
Blue Ridge, Ga.  
Calhoun City, Ms  
Ellenwood, Ga  
Forest Park, Ga  
Houston, Tx  
Memphis, Tn

## ATTACHMENT B

1. Commodity: "General Department Store Merchandise", in straight or mixed loads, including but not limited to the following:

### CARGO - CATEGORY 1 (DRY)

Following commodities in straight or mix loads are designated "CATEGORY 1":

Anti-Freeze	Insecticides
Appliances	Jewelry
Auto Parts	Lawn Equipment; power tools
Beer	Leather goods
Bicycles	Luggage
Books and Publications	Mattresses/Bedding
Cleaning Supplies	Non-Alcoholic Beverages
Clothing and Accessories	Office Machines
Computer Hardware/ Software Electronics	Oil, Grease
Detergents	Paper towels, napkins
Dry Foodstuffs	Paper products
Electronics	N.O.S. Pet supplies
Flour	Photographic/ Optical goods
Food and Snack items	Plastic bags
Footwear	Records/tapes/CDs
Furniture	School supplies
Garments and Undergarments	Seasonal decorations (Packed)
General Dept Store Items N.O.S.	Seasonal supplies
Glass items	Sodas
Greeting Cards	Sporting Goods
Hair Care/Personal Care Products	Stationary Supplies
Handbags and Fashion Accessories	Stereo Equipment

Hand Tools  
Hardware  
Health and Beauty Aids  
House wares

Tobacco  
Toys/Games/Hobbies  
Watches/Clocks  
Wines Spirits

**CSSCA CARGO - CATEGORY 2 (REEFER)**

Following commodities in straight or mixed loads are designated "CATEGORY 2":

Bakery Products  
Beef Products  
Beverages in Bags(Fountain Drink Mix)  
Butter/Margarine  
Candy/Confectionery  
Cheese  
Chill Freeze  
Condiments  
Dairy Products(Sour Cream)  
Fish Products  
Frozen Bakery Products  
Frozen Dinners  
Frozen Potatoes  
Frozen Vegetables  
Ice Cream  
Juice Concentrate  
Juice Products  
Milk  
Pork Products  
Poultry Products  
Soda in Plastic Bottles

2. Hazardous Cargo; Also known as (Dangerous Goods in Limited Quantities):  
Merchandise classified as Dangerous Goods in limited quantities as defined in Volume I, The International Maritime Dangerous Goods Code (IMDG w/amendments 25-89) as specified in paragraph 18.6-18.9, page 135 and containerized for shipment under this contract will not require additional special labeling, documentation or other restrictions unless specified in future amendments to the IMDG. Cargo moving under this commodity category shall not be entitled to a hazardous cargo surcharge. This cargo may include but is not limited to items in (Dangerous Goods in Limited Quantities as specified below):

ORM-D CARGO (70DZ9)  
CHARCOAL,  
CIGARETTE LIGHTERS  
CLEANING COMPOUNDS  
COSMETICS  
DISINFECTANTS

HYPOCHLORITE SOLUTION (BLEACH)  
INSECTICIDES.  
POLISHING COMPOUNDS

3. Upon an order for services to transport hazardous material (not the hazardous cargo dangerous goods in limited quantities covered in Paragraph 2 above) under this contract, that requires on deck stowage based upon coast guard regulations, the ordering Officer shall provide to the carrier, the class flashpoint and UN number of the cargo, including any placards/labeling and special handling instructions of such cargo. Cargo moving under this category shall be entitled to the applicable lumpsum hazardous cargo surcharge set forth in the schedule.